The Incorporated Accountants' Journal.

THE OFFICIAL ORGAN OF

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Letters for the Editors to be forwarded to them, care of the Secretary, as above. Correspondence, copies of reports and accounts, &c., will be welcomed from the profession.

Contents

Professional Notes.

THE Committee on National Debt and Taxation, of which Lord Colwyn was Chairman, has issued its Report, which for some time has been eagerly awaited. The Committee was appointed by a Treasury Minute dated March 20th, 1924, and has held 48 sittings, during which they received evidence from 62 witnesses, some of whom appeared twice before the Committee. The Report and the Appendices cover some 600 pages, and there are numerous graphs for the assistance of those who desire to study at close quarters the result of the Committee's labours. The main Report is signed by Lord Colwyn and seven of his colleagues, and there is also a Minority Report bearing the signatures of four members of the Committee, one of whom appends a reservation.

The Report of the Committee can be regarded as an exhaustive survey of the national life in so far as it is affected by the growth of the National Debt, the burden of taxation, the incidence and effects of existing taxes, the death duties, stamp duties, &c. Part 2 of the Report deals with "the capital levy," and schemes of taxation and debt repayment. The Minority Report concerns itself chiefly with the maintenance of direct taxation and the reduction of indirect taxation, and the introduction of a capital levy as equitable and practicable "provided that it is accepted with general goodwill."

On the subject of the capital levy the Majority Report refers to the evidence of the Association of British Chambers of Commerce, which was given by Sir James Martin, F.S.A.A., to the effect that a high rate of income tax tends to discourage saving, but a capital levy would, owing to its psychological effects, discourage saving to a much greater extent, and the majority come to the conclusion that, even if there were a prospect of a capital levy being well received, the relief from debt which it offers would be insufficient to justify an experiment so large, difficult and full of hazard, and this would hold good in any circumstances not differing widely from those of the present time. Further, unless a levy were accepted with more goodwill than it would be possible to anticipate under present conditions, it would be highly injurious to the social and industrial life of the community.

The Majority Report has a very interesting comparison of the effects of the income tax on the professional man, and the following quotation will be read with interest: "A good deal of capital may have been sunk in the education and training of the professional man, but, generally speaking, once his career has started, he relies mainly on his immaterial 'brain capital.' The doctor or the lawyer, in order to succeed, may have to work hard against competition, but, so far as success in his own profession is concerned, he will not necessarily have to save hard; even when he has won a reputation and his position is more secure, while he may still be spurred to effort by pride or interest in his work, he may not feel any corresponding stimulus to save. Again, he may work hard simply because he wants an outlet for his energy apart from any other motive. There is, indeed, no intrinsic reason why the virtue of thrift, which is allied to caution, should go hand in hand

with energy or enterprise; and the professions, since they are so little dependent on material capital, do not exert any very compelling influence to bring them together."

Anything like a comprehensive review of the Report must be postponed for further consideration. It is full of interest and will repay a careful study. Among the members of the Committee were Sir Josiah Stamp, G.B.E., Hon. F.S.A.A., and Sir William McClintock, K.B.E., F.C.A., while the witnesses included Mr. W. H. Coates, LL.B., B.Sc., Sir Arthur Lowes Dickinson, F.C.A., Mr. P. D. Leake, F.C.A., Sir John Mann, C.A., Sir James Martin, F.S.A.A. (who appeared twice), Mr. George Stanhope Pitt, F.S.A.A. (who gave evidence for the Society of Incorporated Accountants and Auditors), and many well known economists, Government officials and public men.

Another valuable Report which is worthy of close study is that of the Government Committee on Industry and Trade over which Sir Arthur Balfour, K.B.E., presided. It is entitled, "Factors in Industrial and Commercial Efficiency," being Part 1 of a Survey of Industries. It covers 544 pages, and deals with industrial structure, training and recruitment, standardisation, scientific research, industrial art, state measures for meeting post-war difficulties of industry, profits, savings, charges, &c. Sir Arthur Balfour, who is well known in Sheffield, has earned for himself not only a national but an international reputation, and there are few public men to whom industrialists are more deeply indebted for unselfish devotion to the public interests.

The annual report of the Society of Accountants in Aberdeen for the year ended December 31st, 1926, has been issued. This society is one of the three bodies of Scottish Chartered Accountants which work together with a common Examining Board. The number of members on the roll at December 31st, 1926, was 119, being a net increase of four during the year. There is an intimation in the report that the three Scottish societies have co-operated with the English Institute in opposing the Bill introduced into the South African Parliament with the object of conferring the right to use the designation "Chartered Accountant," and there is also a note that a joint committee have continued to direct their efforts towards securing that audits at present carried out by departmental audit staffs should be placed in the hands of professional practising auditors.

An estimate of the trade balance of the United Kingdom for the year 1926 has been issued by the Board of Trade. The excess of imports over exports is put down at 477 millions. Against this there has to be placed National Shipping Income 120 millions, net income from Overseas Investments 270 millions, Short Interest and Commissions 60 millions, and Other Services 15 millions. These make a total of 465 millions, and leave an adverse trade balance of 12 millions. In 1925 there was a balance in favour of this country of 54 millions, so that the trade balance in 1926 is 66 millions worse than it was the previous year. In view of the general strike and the prolonged coal stoppage, a worse result would hardly have been surprising.

The Court of Appeal has affirmed the judgment of Mr. Justice Rowlatt in the case of *Todd* v. *Egyptian Delta Land and Investment Company, Limited*, in relation to the residence of a limited company for income tax purposes. From this judgment it is quite clear that the Courts now uphold the theory of a company having more than one residence and thereby being taxable in two countries on the same income. The Master of the Rolls said that there certainly seemed to be authority for holding that the place of incorporation, the place whose laws determine the company's status and the contract between the shareholders, ought to be held to be one of a company's residences. This, he said, was supported by Lord Justice Warrington in the *Swedish Railway* case, where he said he was prepared to hold that "the registered office is a residence of the company and that it must be regarded as residing there, at whatever other place at home or abroad it may also reside." Continuing, the Master of the Rolls said "Where a company incorporated and registered here owed its status to the laws of this country; where it had to do, and did, certain acts in conformity with those laws, and could not cast those duties aside; where its shareholders' rights and its own dissolution were governed by those laws, was it possible to hold in such a case that the company could claim to be non-resident here?"

The decision of Mr. Justice Rowlatt in *Mitchell* v. *B. W. Noble, Limited*, reported in our Legal Notes last month, has been upheld by the Court of Appeal. The circumstances were that a substantial payment was made to a director in order to induce him to retire as it was considered in the interests of the company that he should do so. The Inland Revenue claimed that this was a capital payment and was not a proper deduction for income tax purposes, but the ruling is against them in both Courts. The total amount to be paid was £19,200, of which, £5,200 became payable immediately and

the balance in four yearly instalments. The grounds on which the payment was made were to avoid publicity of dissensions among the directors, which would damage the company's business.

The London Chamber of Commerce has decided to press for the following changes in relation to income tax in the next Finance Act:—

(*a*) The taxation of co-operative societies in the same manner as companies;
(*b*) Payment of super tax on the profits of the same year as income tax;
(*c*) Exemption of non-resident principals from income tax by mutual arrangement with other countries;
(*d*) Depreciation allowance for wasting assets;
(*e*) Restoration of penny postage, the last published accounts having shown a profit on the postal services of £7,416,266.
(*f*) That, subject to proper safeguards being provided, super tax should not be payable on a reasonable agreed percentage of the profits of private trading firms used to create free reserves.

In this connection Lord Southwark raised the question of penny postage in the House of Lords the other day, but the reply on behalf of the Government was that to reinstate penny postage would involve a net loss of revenue of something over £5,000,000 and that at the present time such a loss of revenue could not be contemplated.

A curious situation has arisen with regard to the surcharges made on certain Councillors of the Borough of Poplar in respect of wage payments for the year 1921/22. The surcharges were upheld by the House of Lords in 1925, but the Minister of Health subsequently agreed to remit them. The Divisional Court has now held that the Minister had no power to make such a remission under the circumstances, and therefore the surcharges must stand.

In Italy a new law has been passed for the purpose of taxing bachelors. The tax in itself is quite small, ranging from 35 lire (6s. 6d.) to 50 lire (8s.) according to age, the lowest age being 25 and the highest 65. This tax, however, is supplemented by a percentage on income, and where a bachelor has no income of his own the tax is to be calculated on the income of his parents, who are obliged to make the payment on his behalf. Foreigners living in Italy appear to be exempt from this tax, but Italians living abroad are not.

In our Professional Notes last month we referred to the case of *Ormond Investment Company, Limited*, v. *Betts*, which related to the assessment of foreign income on a three years average. Mr. Justice Rowlatt decided that the three years average held good in all cases of assessment on income arising from stocks, shares and rents, but the Crown contended that Rule 1 (2) of Cases I and II, Schedule D, was applicable to this class of income, and the Court of Appeal have adopted this view and given judgment against the company accordingly.

The Master of the Rolls gives a long explanation of how the Court arrived at this conclusion, which does not seem to us to be very convincing. The rule under which the income in question is taxable is Rule 1 of Case V, which says "The tax in respect of income arising from stocks, shares or rents in any place out of the United Kingdom shall be computed on the full amount thereof on an average of the three preceding years, as directed in Case I, whether the income has been or will be received in the United Kingdom or not." We do not think that any ordinary person reading this rule would imagine that the three years average could be set aside by another rule applicable to Cases I and II of Schedule D providing that in certain circumstances profits coming under Cases I and II are to be assessed on the actual year of assessment. This, however, is what the Court has done, and the first year's income arising from the foreign stocks and shares has been held to be assessable on the actual income of that year.

The Separate Existence of a Limited Company.

THE separate existence and responsibility of a company is clearly established by the leading case of *Salomon* v. *Salomon* (1897), 13 T.L.R., 46). The Lord Chancellor in that case said: "It seems to me to be essential to the artificial creation [of a company] that the law should recognise only that artificial existence, quite apart from the motives or conduct of individual corporators. In saying this I do not at all mean to suggest that if it could be established that this provision of the statute to which I am adverting had not been complied with, you could not go behind the certificate of incorporation to show that a fraud had been committed upon the officer intrusted with the duty of giving the certificate, and that by some proceeding in the nature of a *scire facias* you could not prove the fact that the company had no real legal existence. But short of such proof it seems to me impossible to dispute that

once the company is legally incorporated it must be treated like any other independent person with its rights and liabilities appropriate to itself, and that the motives of those who took part in the promotion of the company are absolutely irrelevant in discussing what those rights and liabilities are. I will, for the sake of argument, assume the proposition that the Court of Appeal lays down, that the formation of the company was a mere scheme to enable Aron Salomon to carry on business in the name of the company. I am wholly unable to follow the proposition that this was contrary to the true intent and meaning of the Companies Act. I can only find the true intent and meaning of the Act from the Act itself, and the Act appears to me to give a company a legal existence with, as I have said, rights and liabilities of its own, whatever may have been the ideas or schemes of those who brought it into existence."

The only apparent exception to the principle of the separate entity of a company is to be found where the company is of an enemy character. In *Daimler Company* v. *Continental Tyre and Rubber Company* (1916), 2 A.C., 307) it was held that a company incorporated in the United Kingdom is a legal entity which can neither be friend nor enemy, and can only act through agents properly authorised, and so long as it is carrying on business in this country through agents resident here or in a friendly country it is to be regarded as a friend. It may assume an enemy character if its agents *de facto* are resident in an enemy country or are acting under the control of enemies. The character of individual shareholders cannot of itself affect the character of the company, but the enemy character of individual shareholders, and their conduct, may be material on the question whether the agents of the company are in fact acting under the control of enemies. In this case the character and activities of the shareholders may be considered as limiting the principle of the separate entity of a company.

The Bankruptcy Act, 1914, sect. 1 (1), provides "A debtor commits an act of bankruptcy (*b*) if in England or elsewhere he makes a fraudulent conveyance, gift, delivery, or transfer of his property, or any part thereof," and thus a transfer by a person of his business to a company may be an act of bankruptcy and voidable against the trustee in bankruptcy. In *re Dombrowski* (1923), 92 L.J.Ch., 415) an insolvent trader transferred his business and assets to a one man company consisting of himself. After the transfer the two respondents advanced £1,000 each to the trader, who in the name of the company issued four debentures of £250 containing a charge on the assets of the company. The respondents had no notice that the transfer to the company was a fraudulent conveyance under the Bankruptcy Act, 1914. The trader was subsequently adjudicated a bankrupt. It was held that as the transfer was an act of bankruptcy to which the title of the trustee related back, he was therefore entitled to the assets so transferred as property divisible amongst the creditors.

The Law of Property Act, 1925, sect. 172 (1) enacts that "Save as provided in this section, every conveyance of property, made whether before or after the commencement of this Act with intent to defraud creditors, shall be voidable at the instance of any person thereby prejudiced."

The principle of the separate identity of the company is often obscured by the large amount of control conferred on the man by the original Memorandum and Articles, who in fact is the owner of the company. In *British Murac Syndicate* v. *Alperton Rubber Company* (1915), 31 T.L.R., 391) a company was restrained from calling a meeting to alter its Articles so as to deprive certain shareholders of the right to nominate directors.

By appropriate provision in the Memorandum and Articles, the one man owner of the company—by holding the majority of shares and by appointment as life director—may do very much as he likes subject to the limitations that he is a trustee of the company's money and agent for the transactions which he enters into for and on behalf of the company.

To ascertain what the owner of a one man company can do may be elicited from the Articles, and these Articles may usually be altered by special resolution (sect. 13 of the Act of 1908). Since a special resolution requires a three-fourths majority it is difficult to see how the Articles can be altered when the one man owner holds a majority of the shares. Even where the voting power is in the hands of persons who desire the alteration it does not necessarily follow that the Articles can be altered by complying with the statutory requirements. In *British Murac Syndicate* v. *Alperton Rubber Company* (*supra*) a company was held not to be able to alter its Articles to commit a breach of contract. The Memorandum is more difficult to alter, but by making the objects clause very wide and comprehensive it may provide wide powers to the one man company.

Sect. 13 (1) of the Companies Act, 1908, provides: "Subject to the provisions of this Act and to the conditions contained in its Memorandum, a company may by special resolution alter or add to its Articles, and any alteration or addition so made shall be as valid as if originally contained in the Articles, and be subject in like manner to alteration by special resolution."

There are certain limits to an alteration of Articles. Any proposed alteration must not violate any statute or principle of law, *e.g.*, the right given by sect. 137 of the Act of 1908 to a contributory to petition for the winding up of the company cannot be excluded or limited by the Articles *(re Peveril Gold Mines* (1898), 1 Ch., 122). A proposed alteration must be within the powers given by, or implied in, the Memorandum. There must not be "an attempt to do the very thing which, by the Act of Parliament, was prohibited to be done—to claim and arrogate to the company a power under the guise of internal regulation (or Article of Association) to go beyond the objects or purposes expressed or implied in the Memorandum" (Lord Cairns, L.C., in *Ashbury Railway Carriage Company* v. *Riche* (1875), L.R., 7 H.L., p. 671). Any alteration must be *bona fide* for the benefit of the company as a whole (*Allen* v. *Gold Reefs of West Africa* (1900), 1 Ch., 671). There are, in addition, certain limitations on the right of the one man owner of a company to do what he pleases.

The company, being a separate entity, it follows that the assets of the company belong to the company, not to the shareholders or even a majority, and in these circumstances, however wide the powers of the life governing director may be, there are fundamental limitations on his power and authority. He is a trustee for the company and not for himself; the capital of the company cannot be paid to the shareholders because that is a reduction of capital requiring the consent of Court. Dividends must not be paid out of capital nor shares issued at a discount. The company must not buy its own shares, since that is equivalent to a reduction of capital.

The one man director of a private company has wide powers in regard to distribution of profits, but must make provision for loss of circulating capital. As a sound business principle most companies generally provide, by means of a sinking fund, for the loss or depreciation of fixed capital. But they are not compelled in all cases to make complete provision for such loss or depreciation before distributing the profits available for dividends. In *Ammonia Soda Company* v. *Chamberlain* (1918), 1 Ch., 266) it was held that profits of a particular year may be distributed without first making good losses of previous years on profit and loss account.

The terms "fixed" and "circulating" are merely terms convenient for describing the purpose to which the capital is for the time being devoted when considering its position in respect of the profits available for distribution. When circulating capital is expended in buying goods which are sold at a profit, or in buying raw material from which goods are manufactured and sold at a profit, the amount so expended must be charged against, or deducted from, receipts before the amount of any profits can be arrived at.

Wide, therefore, as the powers of a one man owner of the company may be, it is necessary for him to remember that the property of the company can only be dealt with in accordance with the law relating to companies, and that his powers, however great they may be by the Articles, are also controlled and subordinated to the Companies Acts and to the principles relating to limited companies as enunciated by the Courts.

Excess Profits Duty and Personal Qualifications.

Legal decisions on questions regarding Excess Profits Duty have not ceased, which is evidence that matters of that kind are still in dispute. The latest decision is by the High Court in Scotland, and relates to the statutory exemption in favour of any "profession the profits of which are dependent mainly on the personal qualifications of the person by whom the profession is carried on." The question was whether a limited (or other) company can ever enjoy this exemption, and the unanimous answer of the Court of Appeal in Scotland is in the negative. The ground of judgment is that a company can have no personal qualifications. No doubt it may be a single man company; the single man may take the whole active management; he may be entitled to almost all the profits; he alone may hold the professional qualifications without which the business would be illegal; and he may have valuable personal qualifications on which the profits are almost wholly dependent. Yes, but then the difficulty lies in the contrasted facts that in law the profession is carried on by the company and not by the single man, while in fact the personal qualifications are possessed by the single man and not by the company. No one denies that "person" includes a company, and, indeed, that is so under a different part of the same section of the Act, which has been a matter of express decision in both England and Scotland.

But that is beside the question, and the present decision rests on the impossibility of holding in law that a company's business is carried on, not by the company, but by the preponderating shareholder-manager, and the equal impossibility of holding in fact that a legal person as well as a natural person can have personal qualifications. The issue contains an element which is apt to be confusing, and so it was found by the Local Commissioners of Income Tax at Dundee, who granted the exemption which has now been recalled by the Court. So this is, or

rather was, one more of the adverse factors involved in the conversion of a business into a company, but from the nature of the circumstances its force is spent so far as future conversions are concerned. The Scottish decision is in accord with a previous decision by Mr. Justice Rowlatt, but it has the added authority of a Court of Appeal. The English case was *Esplen Limited* v. *Inland Revenue* (1919), 2 K.B., 731), and the Scottish case is *Inland Revenue* v. *McIntyre Limited* (1927), *Scots Law Times*, 63).

Arising out of these cases there is the usual call to make a passing reference to the position of a partnership, which in England is a commercial but not a legal entity, while in Scotland it is both. So much so that it is understood that in Scotland a partner is not entitled personally to conduct his firm's case in a Law Court. Accordingly it is clear that in England a partnership is entitled to the exemption from Excess Profits Duty, based on personal qualifications, *i.e.*, qualifications, not of the firm, but of the partners. And, of course, the like exemption has been enjoyed by Scottish firms without any suggestion of difficulty from the peculiarity that a Scottish firm is a separate legal entity or person as much as any limited or unlimited company.

Obituary.

SIR JOHN HARMOOD-BANNER.

As we are going to press we much regret to hear of the death of Sir John Sutherland Harmood-Banner, Bt., F.C.A., a Past President of the Institute of Chartered Accountants. He was born in 1847, and entered his father's office (Messrs. Harmood Banner & Sons, Accountants, Liverpool) in the year 1865, becoming a partner in 1870. He was one of the original Fellows of the Institute of Chartered Accountants, and filled the office of President in the year 1904-5. At that time matters were not running too smoothly as between the Institute and the Society of Incorporated Accountants and Auditors, and Mr. Harmood-Banner (as he then was) delivered a pretty strong attack upon the Society in his Presidential address. But he never showed rancour or bitterness of spirit, and when the Society held a Conference in Liverpool in October, 1913, Sir John Harmood-Banner, who filled the office of Lord Mayor, gave an official welcome to the Society, delivered some genial speeches and entertained the members and ladies attending the Conference with the splendid hospitality for which the Liverpool Town Hall is famous. As the Rt. Hon. T. P. O'Connor points out in a personal sketch in the *Daily Telegraph*, "Harmood-Banner was a big business man, and the wealth which he acquired was due to unmistakeable business gifts. He took a keen interest in everything that concerned his native city and was for almost countless years a member of its City Council. He served in every office that it had to bestow, and there was scarcely a big business in the city in which he did not have a hand and, as an almost universally employed accountant, he added to his considerable income from outside enterprises." "Nobody," concludes Mr. O'Connor, "either friend or foe, had ever a nasty word to say of him."

Society of Incorporated Accountants and Auditors.

MEMBERSHIP.

The following additions to and promotions in the Membership of the Society have been completed since our last issue:—

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Barter, Horace Bloomfield, Borough Treasurer of Bacup, Stubbylee Hall, Bacup.

Brown, Henry, City Treasurer of Rochester, The Guildhall, Rochester.

Crawley, Percy John, County Accountant, County Council of Salop, County Buildings, Shrewsbury.

Friend, Arthur Henry (Friend, Ellis & Co.), 34, Commercial Street, Newport, Mon., Practising Accountant.

Hutchinson, William Horatio (Hutchinson & Openshaw), Tower Buildings, Wallgate, Wigan, Practising Accountant.

Jones, John David Robert (Alban & Lamb), Central Chambers, Newport, Mon., Practising Accountant.

Jones, Percy (Cato, Jones & Co.), 5 & 6, Clement's Inn, London, W.C.2, Practising Accountant.

Kightly, Walter Frederic (Edw. Judson Mills & Co.), 110, Cheapside, London, E.C.2, Practising Accountant.

Mills, Frederick William Turner, Crown Court, Wood Street, Wakefield, Practising Accountant.

Pearce, Stanley, Borough Treasurer, Lytham St. Anne's Corporation, Town Hall, Lytham St. Anne's.

Robb, Sydney Howard (Edw. Judson Mills & Co.), 110, Cheapside, London, E.C.2, Practising Accountant.

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SCOFIELD, LIONEL PERCY JOHN ATKINS, Clerk to Scampton, Brown & Meadow, 28, Market Street, Wigan.

SCOTT, JAMES ARCHIBALD, Depute Town Chamberlain, Kilmarnock.

SIMPSON, FREDERICK ALAN, Clerk to W. H. Grigg & Perkins, 36, Baldwin Street, Bristol.

SMITH, JAMES HAROLD, Clerk to Simon Jude & West, 10, Cook Street, Liverpool.

SMITH, SIDNEY, B.Com., Clerk to David Smith, Garnett & Co., 61, Brown Street, Manchester.

SOWERBY, ROBERT WILLIAM, Clerk to Peat, Marwick, Mitchell & Co., 11, Ironmonger Lane, London, E.C.2.

TAYLOR, EDWARD WILLIAM THOMAS, Clerk to Allnutt, Bradfield & Co., 17/18, Basinghall Street, London, E.C.2.

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THOMAS, CALEB WILLIAM, Borough Treasurer's Department, Municipal Buildings, Rotherham.

TOMPSON, FREDERICK ARTHUR, H.M. Inspector of Taxes, Board of Inland Revenue, Somerset House, London, W.C.2.

WHITE, EDMUND REAY, Borough Treasurer's Department, Town Hall, South Shields.

WHITHAM, HAROLD, Borough Treasurer's Department, Town Hall, Halifax.

WHITLEY, WILLIAM JAMES, 1, Gladstone Street, Bingley, Practising Accountant.

WILD, WILLIAM JAMES RITCHIE, Accountant's Department, Metropolitan Water Board, 173, Rosebery Avenue, London, E.C.1.

WILKINSON, LEONARD, Clerk to Armitage & Norton, Bank of Liverpool Chambers, Bradford.

WOOD, FRED, Clerk to Armitage & Norton, Station Street Buildings, Huddersfield.

WRAY, RICHARD WILLIAM, Clerk to T. & H. P. Bee, 13, Chapel Street, Preston.

LOCAL AUTHORITIES (BANKS) BILL.

A Bill to authorise local authorities to establish banks.

POWER TO ESTABLISH SAVINGS BANK.

1.—It shall be lawful for the council of every county and of every county borough and of every borough having a population according to the last published census for the time being of 150,000 or over, including the City of London, and every Metropolitan borough, and for a combination of councils of boroughs or urban districts having a combined population according to the last published census for the time being of 150,000 or over (herein referred to as "the council") to establish and maintain a savings bank and to receive at that bank deposits and to guarantee the payment of interest on and the repayment of such deposits, subject, however, to the following conditions:—

(*a*) The accounts of the bank shall be kept separate from all other accounts of the council;

(*b*) The bank shall be carried on in accordance with such regulations as the Treasury, or the council with the approval of the Treasury, may prescribe;

The regulations to be prescribed under this section may apply with or without modification any of the provisions (including penal provisions and any provisions granting exemption from stamp duty in respect of instruments and documents) contained in the enactments relating to savings banks, but, save as applied by the regulations, those enactments shall not apply to the bank.

POWER TO MAKE ADVANCES FOR HOUSING.

2.—(1) The council may establish a housing department of the bank, and may make advances upon the security of freehold, copyhold, or leasehold estate by way of mortgage to any depositor in the bank desiring to purchase or acquire a dwelling house or dwelling houses within its area, or any interest therein, and for this purpose shall have power to hold land with the right of foreclosure subject to the following conditions:—

(*a*) The council shall be satisfied that the value of the premises is sufficient, and that the title thereto is one which an ordinary mortgagee would be willing to accept;

(*b*) The repayment of the advance with interest within such period not exceeding thirty years as shall be agreed, shall be secured by an instrument vesting the ownership in the council subject to the right of redemption by the mortgagor;

(*c*) The provisions of sect. 42 of the Building Societies Act, 1874, with the necessary modifications, shall extend to and apply for the purpose of this section.

(2) The council, for the purposes of this section, may utilise and invest the funds of the bank.

SHORT TITLE.

3.—This Act may be cited as the Local Authorities (Banks) Act, 1927.

Manchester & District Society of Incorporated Accountants.

ANNUAL DINNER.

The annual dinner of this Society was held at the Midland Hotel, Manchester, on February 21st. Mr. GEORGE A. MARRIOTT, F.S.A.A. (the President), occupied the chair, and among the guests were Mr. Thomas Keens, F.S.A.A. (President of the Parent Society), the Lord Mayor of Manchester (Alderman J. H. Swales), the Mayor of Salford (Alderman John Rothwell), the Town Clerk of Manchester (Mr. P. M. Heath), Mr. Courthope Wilson, K.C. (Vice-Chancellor of the County Palatine of Lancaster), Mr. W. E. Thompson (President of the Manchester Chamber of Commerce), Professor G. W. Daniels, M.A., M.Com. (Dean of the Faculty of Commerce, Manchester University), Mr. N. J. Laski (Barrister-at-Law), Mr. John E. Bray, F.I.M.T.A. (City Treasurer of Manchester), Mr. Adam Fox (President of the Manchester Law Society), Mr. F. Walmsley, F.S.A.A. (Past President of the Parent Society), Mr. Henry L. Marsden, B.Com. (Principal, Municipal High School of Commerce), Mr. A. N. Winder (Chairman, Manchester Stock Exchange), Mr. Alexander A. Garrett, B.Sc., B.A., F.C.I.S. (Secretary of the Parent Society), Mr. E. J. Bowerbank (Manager, Lloyds Bank Limited), Alderman Harry Derwent Simpson (Solicitor), Mr. W. Howard Goulty, B.A. (President, Manchester Statistical Society), Mr. G. W. Whitfield (Manager, National Provincial Bank Limited), Mr. R. Dixon (Manager, Midland Bank Limited), Mr. G. Bradbury (H.M. Principal Inspector of Taxes, Manchester), Mr. Sidney L. Smith (Chairman, Manchester Branch Auctioneers' and Estate Agents' Institute), Mr. P. Forrester (Managing Director, Union Bank of Manchester Limited), Mr. F. Murgatroyd (Official Receiver), Mr. Percy Woodhouse (District General Manager, Bank of Liverpool and Martins Limited), Mr. A. Westcott (President, Insurance Institute of Manchester), Mr. T. Harold Platts, F.S.A.A. (Hon. Secretary, Birmingham and Midland Society of Incorporated Accountants), Mr. E. Miles Taylor, F.C.A., Mr. R. Simpson-Duthie (Hon. Secretary, Cumberland and District Society of Incorporated Accountants), Mr. Alex. W. Maitland, Mr. J. Paterson Brodie (Secretary, Stoke-on-Trent Society of Incorporated Accountants), Mr. Charles R. Whitnall, F.S.A.A. (President, Liverpool Society of Incorporated Accountants), Mr. Percy Toothill, F.S.A.A. (Hon. Secretary, Sheffield and District Society of Incorporated Accountants), Mr. Albert Chadwick, F.S.A.A. (Vice-President of the Manchester and District Society), and Mr. Arthur E. Piggott, Hon. Secretary.

After the loyal toast, the PRESIDENT, who proposed the toast of "The Cities of Manchester and Salford," ventured to express a little fear at the tendency to increase municipal trading. He remarked jocularly that if the tendency developed they might find the Lord Mayor responding to the toast of "The Trade and Commerce of Manchester," instead of the President of the Chamber of Commerce.

The LORD MAYOR of MANCHESTER and the MAYOR of SALFORD responded.

Mr. COURTHOPE WILSON, K.C., Vice-Chancellor of the County Palatine of Lancaster, proposed the toast: "The Society of Incorporated Accountants and Auditors, its Branches and District Societies." He said the Court over which he presided had to deal very often with complicated figures, and he had to be something of an accountant to be able to understand them. Accountants were absolutely necessary to the community. The great developments in company law and in other legislative directions affecting commerce rendered it necessary to consult and to rely upon expert accountants. That being so it was essential that accountants should be men of courage, and that they should observe the very highest standards of professional conduct. He referred to the moral duties and courage required in conducting audits. It was laid down in a celebrated case that accountants should be watch-dogs. Of course, while they were watch-dogs they should not be bloodhounds—(laughter)—but they should be courageous enough to stand up to directors of a company who were disposed to regard the company as an *alter ego* of themselves, and to insist that the accounts which they certified did present a true and correct statement of the company's affairs. In these days there was increasing scope for the activities of the profession of accountancy, and he wished their Society every success.

Mr. THOMAS KEENS (President of the Parent Society) responded to the toast. He said his responsibility was great, for he had not only to respond for the Parent Society, but for the District Societies as well. He had to make acknowledgment of the charming speech of Mr. Courthope Wilson in proposing the toast. It was a great honour to the Society that the toast should be submitted by a gentleman occupying the high position of Mr. Courthope Wilson, and for himself he had that night learned something about the functions of the Court over which Mr. Courthope Wilson presided which he did not know before. But accountants were always learning. They were all students, and never really completed their education. (Hear, hear.) Mr. Keens said that as regarded the District Societies they were the complement of the Council of the Society—parts of a great whole. They could claim that the Society was making continuous progress. Their membership now numbered nearly 5,000, and their examinations were of the highest standard. These examinations included a full list of subjects, and when it was remembered that only 43 per cent. of the candidates were successful in passing the Final at the last examination, it must be conceded that the markings were very severe. Now where did the Society differ from the Institute, from the Scottish Institutes and the Irish Institute? Certainly not in examination standard, nor in conduct, nor in the discipline that was exercised over their members. It differed only in its world wide qualification, and to a limited extent in respect of admission without articles. Now the international qualification meant this: that the Society had upon its shoulders to a very large extent the care of the profession throughout the world, because immediately a man having any other qualification went to any of His Majesty's Dominions, or to any foreign part, he usually found it desirable to become an Incorporated Accountant, especially if he wished to take articled pupils. Therefore the time of the Council was taken up very largely with problems arising in all parts of the Dominions and in foreign countries. At the present time they had upon their hands difficulties which were undoubtedly due to the rise of nationalism—excessive nationalism for which the war was responsible, and which expressed itself in a cry of each country for its own people and no others. Now as the Society's qualification was world wide it followed that a large proportion of the duty of looking after practitioners, whatever their qualifications might be, devolved upon the Society's Council. Alluding to the question of admission to the examinations of experienced clerks without articles, Mr. Keens said that so long as the present practice did continue they had a complete answer to the contention, frequently raised by the new societies that sprang up from time to time, that accountancy was a closed profession. Mr. Keens said that accountancy was not a closed profession. As a Society they demanded training, experience, knowledge of a very

high standard, but they interposed no artificial barriers. In those circumstances, therefore, they said that any one of the newer societies which sprang up was redundant; that there was no necessity for it because any man who was willing to go through the course of study and training could qualify for membership of their Society. As to the status of the Society, he would remind them that the evidence increased from day to day. He referred to the many stages by which this status had been achieved—the Warrington judgment and all it implied, the Joint Select Committee on Municipal Trading, the decisions of the Private Bill Committees of Parliament, and the fact that in an increasing number of Municipal Acts the audit clauses stipulated "Chartered or Incorporated Accountants." Of course the Council of the Society was subject to the common complaint that they did not do enough. Critics asked why the Council did not tackle this or that. That kind of complaint was not confined to their Society, or to any society. He had been in local government for 25 years, and was quite familiar with it there; he had also been in Parliament and was familiar with it there. But to those who made the criticism he would say this: they should remember the field the Council had to cover, and that there were limits to what it could do. The things that could be done for the individual practitioner were severely limited, and to the young practitioner he would say—the older ones knew it—that success in the profession of accountancy, or any other profession, was in the main dependent upon personal qualities, brains, industry, and the greatest thing of all, character. (Applause.) He wanted to make his acknowledgments to the great masters of the profession who had preceded him—to Sir James Martin, to whom they could not give sufficient thanks—(cheers)—to Mr. Hewetson Nelson, of Liverpool, to Mr. A. E. Woodington, and to the gentleman who preceded himself, Mr. Pitt. (Cheers.) He also wished to pay his acknowledgments to his old colleague, their senior Past President, Mr. F. Walmsley, of Manchester. (Cheers.) He wanted to assure everyone present that the Council were hard-working, alert, sympathetic, prodigal in time and service, and occupied often with work that was very little known. Their energies extended well beyond the confines of these islands, and members of the Council were sent on a foreign mission from time to time. He wanted to pay his tribute to the staff, and to his friend, Mr. Garrett, the Secretary, and to acknowledge the loyalty they invariably displayed. (Cheers.) They had heard previously of the Council's ambition to secure a permanent home for the Society in London which should be worthy of them. In present circumstances they were hampered very severely. The growth of the Society meant that they had not sufficient accommodation. Big developments, he believed, were pending. They must expand, and their policy was to secure a permanent home, which would be adequate, dignified, but not unnecessarily expensive. They hoped to be able to report upon the matter shortly. Up to now they had had many disappointments. Sites within the City of London were extremely scarce, and they were extremely dear. Turning to the subject of District Societies, Mr. Keens said he hoped they would recognise in him a District Society man. He believed that District Societies were a real part of the machine, and that their work was necessary. He desired to see the development of the District Societies. He thought every Incorporated Accountant ought to be a member of his District Society. He trusted that such would shortly be the case. They knew the scheme that he favoured, but though this scheme would give the facilities it would not necessarily give the service; therefore, he said, it was up to every member to bring to the common stock his knowledge and experience, and to do his level best for his District Society and for the Parent Society.

He was asked to say that the Council anticipated with pleasure the visit to Manchester in the autumn for the Society's Conference. The Manchester Society's fortieth year of service was completed last year, but arrangements would not permit a visit to Manchester then. They recognised that the visit would mean immense work for the President and Committee of the Manchester Society, but they trusted that the Manchester Society would be amply repaid. He wished to congratulate the Manchester Society upon its President—(cheers)—and to express a hope that Mr. Marriott would be asked in the years to come to place his abilities at the service of the Society in a wider sphere. The self-sacrificing labours of their Secretary (Mr. Arthur E. Piggott) for 40 years were well known to everybody in a great commercial city like Manchester. They were certainly very well known to the Council in London. (Loud applause.)

Mr. NEVILLE J. LASKI proposed the toast, "Education and Industry." The relationship between education and industry, he said, was being more and more recognised. About one third of the last report of the President of the Board of Education was devoted to the consideration of the affiliation of education to industry. Alluding to the highest branches of commercial education, Mr. Laski went on to say that the degree in commerce was something of great importance in a business community like Manchester. Barristers like himself lived upon the unbusinesslike methods of business men. (Laughter.) He thought that in view of the severe competition which this country had to face it was more and more important that those who were to undertake the direction of industry and commerce in the future should study in good time something of the technique and practice of the trades or industries to which they were going.

Professor G. W. DANIELS (Dean of the Faculty of Commerce at the University of Manchester), who responded, said it was very significant that education and industry should be linked together in one toast. There was a relation between them. He supposed education meant acquiring the faculty for doing our jobs. In that sense education was very wide; indeed, in that sense it was very difficult to say where education ended. He would like to say a word in regard to the syllabus of study put forward by their Society, and to pay his tribute to their educational work. He was impressed with the immense amount of educational work that was done by professional societies in this country, and it was not always realised what an immense part in the education of the country was played by such a body as the Society of Incorporated Accountants. There were certain facts about the Faculty of Commerce at the Manchester University which he was sure would be of interest to them. Before the war the number of students who went in for a degree of commerce was about 55 a year. Since the war the number had increased every year until the number of students in the present session reading for the degree was nearly 200. Now nearly 50 per cent. of those men were doing their work for the degree in the evenings; that was to say, after doing an ordinary day's work. What would interest them still more was the fact that one of the largest sections among the students was composed of accountants. Bankers were another large section. He thought this showed the keenness of young Lancashire men, who were going into the professions of accountancy and banking to prepare themselves for their work in after life by undertaking the severe task of reading for a degree in such circumstances.

Mr. W. E. THOMPSON (President of the Manchester Chamber of Commerce), who also acknowledged the toast, said he had a feeling that if business men left what he might call the professional side of their businesses to gentlemen like accountants, and devoted themselves more and more to the actual working of industry—to production, distribution, management, and so forth—it would be very much better for

them. He sometimes thought that the business in which he was engaged, which was foreign export business, was getting too difficult. It was becoming extraordinarily difficult to follow international commerce. The sphere of work for the accountant was widening, and he congratulated the Society on the fact. The accountant was becoming increasingly useful to men in industry and commerce. He had recently had two instances brought under his notice. In one a firm abroad was changing its partners, and he found that the accounts prepared for the assessment of the assets of the business and so on were under the charge of a British firm of accountants. Again, quite recently, in an out-of-the-way place where he had a bad debt, and where he required a representative to look after the interests of his firm, he found the representative of a British firm of accountants on the spot ready to give his service and assistance. He thought these instances showed the increasing usefulness of the profession of accountancy, and suggested opportunities of extending their practice and influence which might well be followed up. To the accountant great and interesting opportunities presented themselves if they were prepared to travel and to take up a study of languages and variety of work. (Applause.)

Mr. ALBERT CHADWICK, F.S.A.A. (Vice-President of the Manchester and District Society), proposed, "The Legal Profession, Kindred Societies, and our Guests," which was cordially acknowledged by Mr. ADAM FOX (President of the Manchester Law Society), Mr. J. PATERSON BRODIE, F.S.A.A. (Hon. Secretary of the Stoke-on-Trent District Society of Incorporated Accountants), and Mr. E. MILES TAYLOR, F.C.A., of London.

Changes and Removals.

Messrs. Alban & Lamb, Incorporated Accountants, have removed their Cardiff office to 11, Pembroke Terrace.

Mr. Reginald C. Biddle, Incorporated Accountant, has commenced public practice at 83, Colmore Row, Birmingham, under the style of Ward, Biddle & Co.

Messrs. Clarkson & Bennett, Incorporated Accountants, 16/17, Devonshire Square, Bishopsgate, London, E.C.2, have admitted into partnership Mr. C. F. Rumble, A.S.A.A. There will be no change in the name of the firm.

Mr. Arthur Collins, Incorporated Accountant, has removed his Cardiff office to 11, Pembroke Terrace.

Messrs. Forrest, Son & Platts, 32, Union Street, Birmingham, Droitwich Spa and Coventry, announce that Mr. F. Gibson, A.S.A.A., has been taken into partnership. The practice will in future be continued under the style of T. Harold Platts & Co., Incorporated Accountants, 32, Union Street, Birmingham; 8, St. Andrew's Street, Droitwich Spa, and Barrack's Square, Coventry, the partners being Mr. T. Harold Platts, F.S.A.A., and Mr. F. Gibson, A.S.A.A. The partnership of Forrest, Son & Platts is incorporated by the new firm and includes as a partner Mr. E. W. Forrest, A.C.A.

Mr. J. Hulbert Grove, Incorporated Accountant, has removed his London office to Swan House, 133 & 135, Oxford Street, London, W.1.

Mr. W. H. Hutchinson, Incorporated Accountant, has admitted into partnership Mr. W. D. Openshaw, A.S.A.A. The practice will be continued at Tower Buildings, Wallgate, Wigan, under the style of Hutchinson & Openshaw, Incorporated Accountants.

Mr. W. G. Milton, Incorporated Accountant, has commenced public practice at 526, Bank Chambers, 329, High Holborn, London, W.C.2.

Messrs. Page, FitzGerald & Lambert, Essex House, High Street, Stratford, London, E.15, have opened new offices at 218, Old Christchurch Road, Bournemouth, with Mr. T. A. Spittle, F.S.A.A. (late of Bradford, Yorks.), as resident partner.

Mr. F. F. Sharles, Incorporated Accountant, London, has opened a branch office at 126, Rue de Provence, Paris.

Messrs. Tessier, Son & Randall, Incorporated Accountants, have admitted into partnership Mr. E. N. Tessier, A.S.A.A. The firm will continue to practise at 279, Borough High Street, London, S.E.1.

Messrs. John A. Walbank & Co., Chartered Accountants, have removed to 18, Eldon Square, Newcastle-on-Tyne.

Correspondence.

"RESIDENCE" AND INCOME TAX.

To the Editors *Incorporated Accountants' Journal.*

SIRS,—Mr. Wm. C. Broad, in his letter published in the February, 1927, issue, sets out clearly and correctly the limitation of the decision in the case of *Todd* v. *The Egyptian Delta Land Company*, and I confess I deserve the correction which Mr. Broad has so gently administered.

Like all other would-be reformers, I suppose I am liable at times to over-state my case. However, as a fact, the decision of Mr. Justice Rowlatt, if prosecuted by the Inland Revenue Authorities to the utmost limit, is another serious blow at our already vanishing invisible export trade, and one which will also react on our visible export trade, as I will endeavour to show.

It is a well known fact that the "doing of business" in this country by many foreign corporations consists in nothing more than maintaining a buying office. These offices are required, either for supervising the purchase of British goods or for watching the markets for raw materials, or both. Some foreign banks also maintain offices in this country merely for the watching of financial transactions. But by having offices in this country they have to comply with the requirements of our Companies Acts and to have a registered address for that purpose. If, then, the decision of Mr. Justice Rowlatt is upheld, there is nothing left for such of those companies who have investments outside Great Britain but to quit this country as quickly as possible, for if they remain in it they will be liable to British income tax on the income arising from such investments, whether remitted to this country or not. Could anyone conceive a more serious state of affairs for a country such as this, dependent upon its foreign trade for its very existence as an industrial nation? I think not.

I have no hesitation in stating that much foreign trade is hopelessly lost to this country as a direct result of regarding a joint stock company as a person for taxation purposes. This one legal fiction is probably the direct cause of our present problem of chronic unemployment, and I am of opinion that until this mistake is remedied there cannot be any very great improvement in our industrial position.

Whether we realise it or not, it is a fact that our present income tax system does, in many instances, become nothing more nor less than a heavy export duty on the efforts of our citizens to get and retain foreign business, and the irony of the situation lies in the fact that in return for such taxation this nation cannot and does not render any national service.

In the above circumstances it seems to me that teachers of economics have every reason to be very dissatisfied with the lack of contributions from our profession towards the solution of current problems in the economic sphere, at least so far as the method of raising so-called *inland* revenue is concerned.

Yours faithfully,

G. O. PARSONS, F.S.A.A.

UNEMPLOYMENT INSURANCE COMMITTEE'S REPORT.

The following are extracts from the Report of the Committee appointed "to consider in the light of experience gained in the working of the Unemployment Insurance Scheme, what changes in the scheme ought to be made."

The Principles of Unemployment Insurance.

THE ORIGIN OF UNEMPLOYMENT.

Unemployment, as we know it, is, comparatively speaking, a new phenomenon. The introduction of steam power in the early years of last century brought about a great change in the occupations of a large proportion of the population, but, during the expansion of trade which followed, there was no unemployment which gave rise to any social problem comparable to that which subsequently emerged. Unemployment did, it is true, result first from the displacement of handworkers and, later, as a consequence of over-production in particular directions. But the handworkers were soon absorbed in the factories, and the effects of over-production were temporary. Towards the end of the century the evil became more manifest, notably in 1893, and in the first decade of the 20th century it assumed still more serious proportions. It was in 1911, as we have seen, that unemployment insurance was first made the subject of statutory enactment.

THE CODE OF SOCIAL LEGISLATION.

Just as the Factory Acts aim at securing that work in factories shall be carried on under safe and reasonably healthy conditions, just as the Trade Boards Acts aim at preventing sweating, and the Employers' Liability and Workmen's Compensation Acts provide for loss of earnings due to industrial accidents, just as the Health Insurance Scheme assists workpeople unable to earn wages through sickness, so the primary purpose of unemployment insurance is to provide a standby for workers thrown out of employment through no fault of their own.

MEASURES TO REDUCE UNEMPLOYMENT.

It would be unfortunate if pre-occupation with the task of ascertaining how best such unemployment can be insured against were to weaken any concerted effort to get rid of unemployment itself. Some unemployment of course is inevitable. A frost in the Baltic, persistent bad weather, a breakdown of machinery, prolonged disturbance of trade conditions due to a convulsion like the war, will bring in their train unemployment in greater or less degree. But not all unemployment is inevitable. The establishment of the employment exchanges has helped to diminish it. Although not yet utilised to an extent either possible or desirable, these exchanges have saved numbers of employers and workers from aimless searches for workers and work, and have sometimes even found workers for work which otherwise must have been left undone. But this is not all. As we have already explained, there is associated with each exchange a local employment committee representative of the principal employers' and workers' organisations in the area of the exchange. This body at its periodical meetings receives reports as to the state of unemployment in the district, and this knowledge, given to the members of the committee to whom above all others it is valuable, and by whom it is regularly used, helps in itself to limit the extent of unemployment. From the further development of the exchanges and of the local employment committees much may be expected. In this connection it must not be forgotten that, though the exchanges have been in existence since 1910, the war, the demobilisation and the trade depression have involved them in such continuously heavy duties of a kind other than those of finding and filling vacancies that in truth they have as yet had no real opportunity of proving their utility in these respects.

The efforts made by successive Governments to cope with the abnormal unemployment which has arisen out of the war have also helped to diminish the evil. Industry has been assisted through export credits, the trade facilities scheme, and in other ways. We appreciate also the public spirit of local authorities and other bodies in pushing on the execution of public works which would otherwise have been deferred till the times were more propitious.

We are, however, of opinion that organised and unremitted effort to reduce the volume of unemployment should always be a leading feature of the industrial policy of the country. With the limitations described above we believe that, if the right arrangements can only be devised, useful work can be found for a very large population of capable and willing workers. Specialisation is the root cause of much unemployment. The tendency is for workers to become specialists in some particular occupation. If the demand for their special services ceases, work for which they are fitted is not always easy to find immediately. That they should, and must, find other work is, of course, not to be gainsaid. But the extent to which radical changes of occupation are necessary may be reduced. When changes are necessary, some of the attendant difficulties can, by better and more elastic organisation, be removed, and provision ought to be made against avoidable hardships.

SOME DETAILED SUGGESTIONS.

We do not pretend to have given exhaustive consideration to the measures which may be taken to minimise unemployment. We are not sure that, strictly speaking, these lie within our Terms of Reference. But some members of the Committee have expressed opinions which should, we feel, be brought to your notice.

(*a*) It is strongly urged that greater use should be made of the employment exchanges by employers. In one respect this suggestion is definitely open to us. The response to an offer of work is the best test of the genuineness of an unemployed person's desire for work—a point the great importance of which will be apparent later. The more numerous are the vacancies notified to the exchanges, the less is the likelihood of unworthy persons receiving unemployment benefits. The fuller, again, is the use by employers of the exchanges, the less will be the difficulties of the unemployed in finding work. Above all, the greater the reliance placed by the employers upon the exchanges, the more accurate will be the knowledge possessed by the different industries and by the Ministry of the prevailing conditions, and the greater the possibilities of ameliorating these conditions.

It is also suggested that the exchanges should make a point of anticipating unemployment by keeping in close touch with the leading employers in their locality, thus minimising subsequent difficulties. The local employment committees, suitably constituted, can be and often are of great assistance in this direction.

It is perhaps not practicable to recommend that employers should be compelled to notify all their vacancies to the exchange. But we welcome a suggestion of the National Confederation of Employers Organisations that employers should at any rate notify voluntarily their engagements of labour. Nothing, however, is more likely to attain this and other desirable ends than the invariably impartial and effective administration of the scheme as a whole,

so that it may deserve the confidence of employers and insured contributors alike. This must always be the first care of all concerned in the work.

(*b*) Some of us think that the time has come when every industry should be invited to co-operate in a systematic effort to survey its own unemployment problem and its own supply of labour. In certain trades arrangements already exist between employers and the trade unions for the filling of vacancies and for the transfer of labour. It is not suggested that these relations should be disturbed; rather that they should be developed and become an integral and effective part of the employment exchange system. If each of the great industries were thus to consider its own problem, it would be possible to see how far labour which is surplus and redundant in one branch of industry can be turned to account in another branch. The skill of the workers would thus be conserved and displacement from occupations to which they have been trained would be minimised. An employment committee in each industry, representative of the whole industry, supported by employers and trade unions, and in close touch with the employment exchange system and with the local authorties might be introduced with great advantage.

Some of us have been impressed with the success achieved by the specialised employment exchange at Tavistock Street, London, for those engaged in the building trade, and think that similar exchanges should be established elsewhere both for this and other trades, staffed by officials who have special knowledge of the particular branch of industry.

(*c*) We think also that in normal times many difficulties might be met by proper attention being given to the entry of young persons into industry. Some of us believe that in the long run it would be an economy if the school age of children were raised. Others of us subscribe to this view, if the change be confined to children showing capacity for education. We have all learned with interest of the work of the juvenile advisory committees attached to many employment exchanges, and of the centres where instruction is given to unemployed boys and girls. We have not, however, sought special evidence on this subject, because we know that the relation between education and industry is being specially considered by two other Committees. One of these, covering England and Wales, is under the chairmanship of Mr. Dougal O. Malcolm; the other, under Lord Salvesen, is dealing with the subject in Scotland. Already the particular question of unemployment insurance of juveniles has formed the subject of an interim report from the Malcolm Committee, and, having thus satisfied ourselves that the importance of the question is in no danger of being overlooked, we have thought it better to leave the detailed recommendations with regard to it to be made by those appointed specially to study it.

(*d*) Some of us would like to see developed a system of training the unemployed for other occupations. We are aware of the experimental work which is being done by the Ministry at the present time, and would like to commend their excellent training of women in domestic work and their attempts to fit men and women for life overseas. The view has been expressed in the Committee that training of this and similar kinds should be systematically developed.

(*e*) Some of us have been impressed by the difficulty which certain growing industries experience in meeting their labour requirements, even though there are unemployed men in other industries where their services are not likely again to be required, or at any rate for a considerable time. Employers in the expanding industries, or portions of an industry, are anxious for larger numbers of skilled men and would readily employ workers from other trades, even though their experience is confined to their previous work. Where, however, they are not possessed of the requisite experience to make their work at once of adequate value employers have difficulty in paying immediately to these men wages at the full standard rates. What is desired is that such men should be willing and should be permitted to work for a few months at a wage somewhat less than the standard rate in the assurance that by the end of that time they will become sufficiently experienced to be worth the full wage. There can, we think, be no doubt that, if arrangements were made on the lines indicated, they would be found to be to the benefit of the men and of the industry as a whole. We would express the hope that all with influence in this matter will take it into their careful and sympathetic consideration.

(*f*) Our investigation has specially pressed upon our notice the necessity for a prolonged period of industrial peace. It is no part of our duty to express an opinion on the existing methods for the avoidance or settlement of industrial disputes, but we doubt whether those who can control them have always a just conception of the consequential unemployment brought about in industries entirely beyond the ambit of those immediately affected by a stoppage of work. A conspicuous example is well in the public mind. The coal dispute has very seriously raised the level of unemployment in many other trades, and is mainly responsible for the increase of the deficit of the Unemployment Fund from £7,100,000 in April, 1926, to over £21,000,000 in December, to mention only two of its consequences which have directly come under our notice.

(*g*) Finally, it is urged that the Ministry should hold a comprehensive inquiry into the arrangements for the recruitment and discharge of labour in industry, and should seek on the results of that inquiry to encourage such measures as will prevent the introduction of redundant labour into particular occupations, secure an adequate supply of effective labour in all industries, ensure greater stability of employment and generally improve the conditions and control of the supply of labour. We have learned with great interest of a committee under the chairmanship of Sir Donald Maclean, which is considering the decasualisation of dock labour, and we trust that it will be successful in reducing unemployment at the ports.

But when all these measures have been taken, and however successfully, there will still be unemployment fit for insurance. Many men and women will still from time to time be out of work through no fault of their own or of the organisation of the industry in which they are engaged.

THE TRADE CYCLE.

Now there is a conspicuous feature of unemployment which must be taken into account when contemplating insurance against it. There is strong ground for the belief that the periods in which unemployment is abnormally heavy are recurrent. The periodic alternation of high and low levels in industry has been interrupted by the war, but there are sufficient data to establish the theory, which in itself is probable, and indeed is generally accepted. Unemployment is a risk which moves in cycles dependent on the course of trade, and a permanent scheme of unemployment insurance

must take into account both seasonal fluctuations and others which occur at longer intervals and are of longer duration. The influence of these general recurrent fluctuations on our proposals is, as will be seen later, very great.

RETENTION OF THE PRINCIPLE OF UNEMPLOYMENT INSURANCE.

We have found in all quarters a general agreement that the risk of unemployment should be insured. Nobody has suggested to us that the principle of unemployment insurance should be abandoned. It has been recognised by all who have appeared before us, and we ourselves share the view, that an unemployment insurance scheme must now be regarded as a permanent feature of our code of social legislation.

Upon the question what that scheme should be, we have, on some important points, found general agreement among our witnesses, but on others, not less important, a wide difference of opinion has emerged. It is agreed, for instance, that the scheme must as at present be compulsory on the persons covered by it. A voluntary scheme has not been suggested to us in any quarter, and we cannot ourselves think that such a scheme could be adequate to the need. It is agreed, too, on all hands, that a permanent scheme should cover at the least all the occupations for which the present scheme provides.

THE CONTRIBUTORY PRINCIPLE.

On the other hand, there has been a sharp cleavage of opinion among our witnesses on the important question whether the scheme should be contributory in the present sense and like the Health Insurance Scheme and the new Old Age and Widows' and Orphans' Pensions Scheme, where contributions are payable by the employer, the employed person and the State. The Trades Union Congress thinks that "industry should be relieved of the burden of unemployment insurance, and that on both economic grounds and grounds of equity the charge involved in the maintenance of the unemployed should fall upon the general body of taxpayers." The National Confederation of Employers' Organisations on the other hand regards the contributory principle as an essential feature of any scheme worthy of support.

On this point we have come to the conclusion that the formulation of a non-contributory scheme, even if we were minded to undertake that task, is not within our terms of reference. We are there asked to consider "What changes in the Unemployment Insurance Scheme, if any, ought to be made." The contributory principle is and always has been so completely of the essence of the existing scheme that one which was non-contributory would not, in our view, be the existing scheme changed. It would be a different scheme altogether. If we had found ourselves so attracted by a non-contributory scheme that no changes in the existing system would have seemed to be worth while, it would, we conceive, have been our duty merely to recommend its abandonment. But we have not been invited to take that course, even by those who are most in favour of the non-contributory principle. The representatives of the Trades Union Congress, while putting forward their views as above stated, frankly added that in existing circumstances they felt that such a scheme could not be secured, and they accordingly very readily assisted us by indicating the directions in which in their judgment the present contributory scheme might be improved.

It is perhaps desirable here to point out that the differences of opinion manifested on this fundamental question are not merely differences between the advocates of contributory schemes on the one hand and of non-contributory schemes on the other. There is almost as fundamental a line of cleavage amongst the supporters of the non-contributory principle. One school of thought amongst them would have a scheme universal and non-contributory but governed by conditions of benefit much more stringent than any which can fairly be imposed under a contributory scheme; the other school would relax existing conditions of benefit and throw the duty of finding employment primarily upon the State. It is perhaps not too much to say that each school would prefer a reasonable contributory scheme to the non-contributory scheme advocated by the others.

THE GENERAL PRINCIPLES OF AN UNEMPLOYMENT INSURANCE SCHEME.

And first it must be clearly understood that the purpose of any unemployment insurance scheme is to provide an insurance against unemployment on certain conditions; that is to say, with certain limitations. It is not a scheme automatically to give assistance to every insured person who is out of work. It does not provide an out-of-work donation. The distinction is vital. It flows from it that a beneficiary under an insurance scheme must be willing and still able to work; that he must still remain in the field of employment; that he must, in a real sense, be genuinely unemployed only from circumstance and in no way from choice. No other person can properly be a beneficiary under an insurance scheme. A scheme to provide benefit in the event of unemployment would impose no such conditions. So far we have found general agreement, and such agreement is important because of the conditions for the receipt of benefit which are properly and essentially part of an insurance scheme.

But here agreement, at least in the preliminary stage, ends. On the one side we have those who favour, as they put it, an insurance scheme, strictly so called; a scheme under which contributors receive benefits bearing some proportion to their own payments; a scheme capable of being administered in accordance with the original intention of the 1920 Act, which, in the opinion of those who express this view, has never had a fair chance. They object to the whole system of "extended benefit," because, as they hold, "extended benefit," as it now exists, is a burden which should be spread over the whole community. A contributory scheme, the solvency of which has been actuarially determined, is according to their view debased by its use as a channel for the distribution of what is often in effect, as they think, public charity; for a distribution moreover, which, in a substantial number of cases, is made amongst individuals who, whatever may be their claims to maintenance by the community at large, can have no real claim upon a scheme run at the expense of industry on proper insurance principles. So much for the one view.

Those who advocate the other would prefer that a scheme should be non-contributory. But accepting for present purposes the condition that the scheme must be contributory in character, they propose one which would have as its purpose the provision of benefit for all genuinely unemployed people, no matter how long they are unemployed provided that they are genuine in the sense already indicated. Extended benefit, as such, would also under their proposals be abolished. Under their scheme, as under the other, there would be only one kind of benefit. But while under the first scheme the one form of benefit would approximate to what we now know as "standard" benefit, under the second scheme the one form of benefit payable would in its nature approximate to or even exceed the existing "standard" and "extended" benefit combined.

Now there are difficulties, probably fatal, to the acceptance of either scheme in any extreme form. The non-contributory

out-of-work donation set a precedent for a general scheme of benefit. On its cessation the decision of the Government of the day to provide for unemployment as it then existed by recourse to the machinery and accumulated funds of the Unemployment Insurance System has, for good or ill, led the insured workers to expect from an unemployment insurance scheme much more than can be provided, on strictly actuarial principles, by a low rate of contribution. On the other hand, a scheme which would offer all the benefits envisaged by the second alternative would, in any extreme form, have little chance of acceptance if for no other reason than that its cost, if genuinely contributory, would impose upon the workers and industry, to say nothing of the State, a prohibitive financial burden.

THE CONDITIONS OF A CONTRIBUTORY SCHEME.

Assuming that a contributory scheme is to continue, it is, we think, necessary to steer a middle course between these two extreme views. On the one hand, such a scheme, if it is to have any real attractions for the compulsorily insured contributor, must be reasonably adequate. On the other hand, its benefits must be provided out of the contributions made on his account, if the special virtue of a contributory scheme is not to be lost. The State in respect of its contribution is also, as we have seen, entitled to see that the scheme is, so far as is possible, free from all injurious tendencies affecting the public interest. The employer is likewise entitled to be assured that effects injurious to his interests are reduced to a minimum. Indeed, as we envisage it, a contributory scheme, from which all characteristic advantages may be hoped for, should comply with the following principal conditions:—

(1) The worker's contribution must be moderate in amount. It should never normally exceed 5d. a week, and, supplemented by the contribution of his employer and the State, should secure him an insurance sufficient in the great majority of cases to save him, during inevitable unemployment, from recourse to public assistance.

(2) The scheme must not, by the extent of benefit promised, tempt the insured contributor to improvidence when in receipt of good pay.

(3) It should provide benefits definitely less in amount than the general labourer's rate of wage, so that there may be no temptation to prefer benefit to work.

(4) It must not interfere unduly with the mobility of labour in this country.

(5) It must not deter from emigration those who would be benefited by a life overseas.

(6) Subject to these conditions, the scheme should be made as attractive in its benefits to the insured contributor, as, on a strictly actuarial basis, it is possible to make it.

THE PROPOSED SCHEME.

With these principles in view, we now proceed to set out the main outlines of a permanent unemployment insurance scheme, followed by a statement of the considerations which have led us to propose them.

Outlines of the Permanent Unemployment Insurance Scheme.

1.—UNEMPLOYMENT FUND.

There should be an unemployment fund subscribed in equal proportions by employers, employed and the State of amounts actuarially certified to be sufficient to enable the outgoings in benefits and administration to be met over a trade cycle.

2.—SCOPE.

The classes of persons to whom the scheme is to apply should be substantially the same as under the present scheme. It should be compulsory on them and their employers.

3.—RATES OF BENEFIT.

There should be paid from the unemployment fund benefits at the following weekly rates:—

Men	17s.
Women	15s.
Adult dependants (not more than one for any insured contributor)	7s.
Dependent children under the age of 14	2s.
Young men aged 18 to 21	10s.
Young women aged 18 to 21	8s.
Boys aged 16 to 18	6s.
Girls aged 16 to 18	5s.

4.—CONDITIONS FOR THE RECEIPT OF BENEFIT.

A claimant for unemployment benefit should be entitled to it, subject to a waiting period of six days, provided:—

(*a*) That at least 30 contributions have been paid in the previous two years in respect of him;

(*b*) That he is genuinely seeking work but unable to obtain suitable employment and is capable of and available for work;

(*c*) That he is free from the disqualifications for benefit, showing particularly—

(i) That he has not left his employment voluntarily without just cause or been dismissed for misconduct;

(ii) That he is not affected by the trade dispute disqualification.

In the case of juveniles, the payment should also be conditional on attendance at an approved course of instruction, where such instruction is available.

5.—CONTRIBUTIONS.

The normal contributions payable by each of the three parties should be at the following weekly rates:—

Men	5d.
Women	3½d.
Young men aged 18 to 21	4d.
Young women aged 18 to 21	3d.
Boys aged 16 to 18	2½d.
Girls aged 16 to 18	2d.

For the purpose of extinguishing the debt on the existing scheme when it is wound up, the following additions should be made to the above contributions, these additions to cease as soon as that debt is liquidated:—

Men	1d.
Women	½d.
Young men aged 18 to 21	1d.
Young women aged 18 to 21	½d.
Boys aged 16 to 18	½d.
Girls aged 16 to 18	½d.

6.—ADMINISTRATION.

The scheme should be administered by the Ministry of Labour through the medium of the employment exchanges. Decisions on claims to benefit should be subject to an appeal to the Courts of Referees and in certain cases to the umpire. Where benefit has been paid for a lengthy period, the claim should be specially reviewed by the Court of Referees.

The cost of administration should be a charge on the fund, save that, if it exceeds in any year one-eighth of the contributions, the balance should, as at present, be paid by the Exchequer.

Misrepresentation in Connection with Contracts.

A LECTURE delivered before the Incorporated Accountants' Students' Society of London by

THE RT. HON. SIR LESLIE SCOTT, K.C., M.P.

The chair was occupied by Mr. THOMAS KEENS, President of the Society of Incorporated Accountants and Auditors.

Sir LESLIE SCOTT said: The subject of the address is one of particular interest, I think, to accountants - namely, the effect of misrepresentation upon contracts. In your daily life that is a question that is cropping up continually, as I know from 30 years' experience of the law, and of accountancy in connection with the law. My experience has led me to take the view that with accountants, who have an easy knowledge of law but not a very full knowledge, it is important to get certain basic principles of law, in connection with any topic in which there are interested, clearly stated and understood; and, after all, that is a desideratum not only for accountants, but for lawyers. Therefore I am going to take the line of dealing with the subject from its elements, and my belief is that a grasp of the elements of the subject of to-night's address will enable anybody really understanding them to guess right nine times out of ten when he has a practical question to solve in the course of his business. People are very apt to exclude the elementary principles; like the boy who thought the early lessons on the violin dull, they like to begin at a later stage. The elementary principles are essential in order to get a conception of the legal consequences that follow from certain facts which you come across daily.

THE EFFECT OF MISREPRESENTATION ON CONTRACTS.

The word "contract" is used in English law to cover various sources of obligation—some of which have nothing to do with agreement—such as the action for money paid at request, statutory or judgment debts, or deeds poll.

But it is only in connection with contracts founded upon the agreement of the parties, whether oral, written or by deed, that the question of misrepresentation arises. And when I use the word "contract" to-night it is only in this meaning that I shall use it.

In order to understand the bearing of misrepresentation upon contract it is necessary to get a clear grasp of the difference between representations which may cause a contract to be made—or "induce a contract," as it is usually expressed—and statements oral or written which are a part of the contract itself, and have legal effect because they are intended to have contractual operation.

CONSIDER THE ESSENCE OF CONTRACT BY AGREEMENT.

It is a promise by A for a consideration from B.

The *consideration* may be a promise by B or a present act by B.

Let us first be clear as to what is a promise.

Normally it is an undertaking that some event shall happen in the future; and it is immaterial whether the event is one wholly or partly or not at all in the power of the promiser to bring about, provided the promise is the agreed subject of the contract, *e.g.*:

(1) A promises to send his ship to London in consideration of B undertaking to supply a cargo; or

(2) A promises to do certain things in consideration of B undertaking that C shall perform some act; equally good as a contract, whether B can control C's actions or not.

E.g., *Duff Development Company* v. *Kalantan* (1923, A.C. 395), where in consideration of the company cancelling a concession the Sultan of Kalantan promised that a railway should be made by a third party.

As I have already said, the normal content of a "promise" is an undertaking to do some act, or that some act shall be done in the future, but a promise may take the form of an assurance that a certain fact exists in the present, coupled with an implied undertaking to be answerable in damages if the assurance prove incorrect; such a promise is in the law of contract called a warranty.

But whereas a "promise" in the contractual sense *may* relate to the present existence of some fact, although normally and in the vast majority of contracts it relates to a future fact, a representation *must* always be a statement of existing fact; *and this is its fundamental characteristic.*

Although a representation *may* consist in an assurance which is also a term or part of the contract, normally, and in the vast majority of cases, it is wholly external to the contract and merely leads up to the contract. When it is a term of the contract it may be either a condition or a warranty (in the ordinary and not the insurance sense of that word).

If the representation is in a written instrument the question whether it is a mere representation or a substantive part of the contract is one of construction for the Court, and not one of fact for the jury; see *Behn* v. *Burness* (1863, 32 L.J., Q.B. 204).

And see the same case for a general discussion of the difference between representations and conditions though it should be noted with care that the word warranty is there used in the insurance sense of a "condition" and not in the sale of goods or ordinary contract sense of a collateral assurance, which is not a condition. See also Benjamin on Sale, Bk. III, Ch. II; Pollock on Contracts, 9th Edition, Ch. X, Parts I and II, and pages 568/9.

When you speak of a contract being induced by "misrepresentation," you usually mean by an untrue statement external to the contract. But we must not forget that an untrue statement, subsequently made a term of the contract, may equally, when first given, have induced the contract. But the legal position is then complicated by the agreement of the parties, and for clearness it is better first to consider the simple case of an external representation.

In the first place we must distinguish between definite statements of fact (oral or written or to be implied from conduct) on the one hand, and mere expressions of opinion on the other—such as puffing or bluffing in the course of a negotiation. It is really a distinction of degree. Praise of goods may readily import a description which will be a representation, and bluffing may easily degenerate into lying. And there is a further distinction which is material to certain aspects of our subject.

A misrepresentation may be
(*a*) Fraudulent, or
(*b*) Innocent;
and legal results may differ in certain ways according as the misrepresentation is one or the other.

One of the first essentials to grasp is that on the one hand misrepresentation does not affect the *formation* of the contract; *i.e.*, it does not prevent the contract coming into existence—in legal language, the contract is not *void*. But on the other hand, whenever a contract is induced by misrepresentation, whether fraudulent or innocent, the party affected has an option either to stick to his contract or to get out of it, *i.e.*, to "avoid" it, and the contract is said to be *voidable* at his election.

The reason why misrepresentation has this effect is that the agreement between the parties is vitiated by an original defect.

The theory of contract is based upon the *consensus ad idem* of the two parties, *i.e.*, upon their common intention to assume reciprocal obligations, an intention formed in each mind because of a certain set of circumstances which both had in view. If before they agree A gives to B a certain description of the material facts upon which B's decision is to depend, B gives his consent upon that basis. If the facts subsequently prove quite different, how can it be fair to hold B to a contract which no doubt he has made but which he would not have made had he known the truth? That is the principle of justice—and commonsense—upon which a contract induced by misrepresentation is voidable at the election of the party misled.

But just because the right is one of election, the party affected must make his choice as soon as he knows the facts which show him that he has been misled. The law does not allow you to blow hot and cold; wherever a man has an election, the law calls upon him to make up his mind as soon as

(i) He knows all the material facts, and

(ii) He has had a reasonable time to consider his position in the light of that knowledge.

If he so elects, he may treat the contract as without binding effect and regard himself as wholly free.

Historically, the avoidance of a contract induced by misrepresentation resulted from the intervention of the Courts of Equity, which considered it wrong to hold a man to a contract he would not have made but for the misrepresentation of the other party, and accordingly granted "rescission." But for a long time now misrepresentation has been a good defence at law—and the practitioner need not trouble to inquire into the origin of the rules now applicable in all Courts alike.

It makes no difference to this right of avoidance whether the misrepresentation was fraudulent or innocent, whether it was wholly outside the contract or inside the contract as one of its terms, provided only that the party complaining was in fact induced by the representation to enter into the contract.

It is important to remember that the right of avoidance does not depend on proving fraud, as the cases and text-books talk so much of fraud that one might easily be misled by a superficial reading of the authorities.

The right to avoid the contract is subject to two conditions: the misrepresentation must have been of a fact material to the contract, and the other party must have been induced by it to make the contract. In practice these two rules are often formal. People do not usually complain of being misled by untrue statements about things that do not matter.

A fact is said to be material if it would affect the judgment of a reasonable man governing himself by the principles on which men in practice act in the kind of business in hand (*Ionides* v. *Pender*, L.R., 9 Q.B., 531).

A man is "induced" if he acts on the information given, and if he acts *after* receiving material information it is to be presumed that he acts because of the information. It is only in cases where the evidence shows that he made his own inquiries that the Court is likely to hold that he was not induced by the misrepresentation, though even if he has made inquiries he may still have been induced by the misrepresentation. It is therefore not safe to assume that because inquiries have been made by the party complaining the Court will say he was not misled.

But as the result of such misrepresentation is not to prevent the contract from being made but only to confer on the party induced a right to set the contract aside, certain important legal consequences follow. Unless that party exercises his right, the contract will continue to exist as a fountain of legal obligation: the other party will be both bound and entitled to act under it and to treat it as binding, and third parties will be entitled to treat it as conferring on its parties legal powers. Take as an illustration a contract of sale of goods by A to B induced by the misrepresentation of the seller. In such a case innocent sub-purchasers can get a good title up to the moment when the first purchaser exercises his election and puts an end to the contract, thus causing the goods to revest in the original seller. And as the party who made the misrepresentation of course remains bound by his contract, so he too may be led into altering his position so long as the contract remains in existence.

For these reasons the law requires the injured party, the party who has the right of election, to make up his mind when he learns the truth and to take definite action one way or the other. If he elects to rescind, he must notify the party who has misled him. If after knowledge of the truth, and the consequent realisation that he was misled, he gives no such notice, but does some act which shows that he continues to treat the contract as effective, he is held in law to have elected to affirm and not disaffirm, and thereafter he can no longer avoid it. And even if he merely does nothing his inaction may readily be interpreted by the other party or by the Court as importing a decision not to avoid the contract.

The point to remember is that the right of election in law is a right to choose between two courses of conduct, to act in one way or the other way, so that if the party who has the option does some act which is necessarily attributable to the contract a presumption in law arises that he has elected to affirm the contract—as where a lessor accepts rent with knowledge of a breach of covenant conferring a right of forfeiture, *The King* v. *Paulson* (1921, 1 A.C., 271). If the act done is not necessarily attributable to the contract, the question whether it amounts to an affirmation of the contract is one of fact for the jury. And as the right of election arises as soon as complete knowledge is obtained of the facts which give rise to the right, so mere inaction after that moment will normally mean an election not to act.

Such a presumption will not of course arise until the party who has the right

(*a*) Knows the truth, and

(*b*) Has had reasonable time for reflection,

but if after that he does nothing, in most cases the presumption of a negative decision will be quite fair. So there is danger in procrastination. And the point of greatest practical importance is just this danger of inaction.

I have dwelt somewhat on this subject of voidability and the right of election because it is one where the client frequently comes to his solicitor to advise him how to act; and it is therefore most important for the solicitor to know what are the principles to apply to his client's case, in order to advise him safely. I think they may be summed up in three rules:

(1) The client need not act till he knows or has the means of knowing all the material facts.

(2) When he has that knowledge actual or constructive he must make up his mind without delay.

(3) After knowledge any unequivocal act will be, and hesitation or indecision may be, treated as an election or as evidence of an election.

The commonest case of misrepresentation in modern business is probably in relation to contracts to take up shares in a company, and the need of prompt and decisive action as soon as the facts giving rise to a right of rescission become known has been emphasised in many judgments. It is not enough for the shareholder to write a letter, by himself or his

solicitor, when he finds out that he has been misled. Other members of the public may be induced to take shares by seeing his name as a shareholder. For the same reason people may give credit to the company. For this reason immediate steps must be taken by writ or summons under sect. 32 of the Companies Act, 1908, to get the register rectified in order to prevent others from being misled. And many plaintiffs have lost their case just because, after the solicitor's letter of complaint, the legal proceedings have not been initiated immediately.

But as the right of rescission is based upon principles of equity, so certain subsidiary rules have been formulated which limit the right, and in relation to one of these there is doubt as to whether the presence or absence of fraud may not make a difference.

> Rule 1.—If third parties have, before the right of rescission arises, taken action in virtue of the voidable contract, the law will not allow their position to be prejudiced, and the right of rescission may be lost (Pollock on Contracts, 9th Edition, page 624).
>
> Rule 2.—*Restitution in integrum* is the principle of all rescissions, and if the former state of things cannot be restored the contract can no longer be set aside.

But this rule must not be misunderstood or pushed too far. Where the change of position is the natural result of the contract induced by A, then A cannot be heard to complain that he will be in a worse position if the contract is rescinded than he would have been if the contract had never been made (*Adam* v. *Newbigging*, 13 A.C., page 308).

There are, however, some decisions and expressions of judicial opinion, though not in the House of Lords, that where a contract has been executed as by a transfer of property, even though third parties have not altered their position, the contract ceases to be voidable unless the representation was fraudulent (*Seddon* v. *N. E. Salt Company* (1905, 1 Ch. 326), and *Armstrong* v. *Jackson* (1917, 2 K.B., per McCardie (J.) page 825)). But it is difficult to see on what principle this exception is founded. McCardie (J.), followed the previous decisions with obvious reluctance, and the Court of Appeal has recently said in the unreported case of *Consolidated Electrical Company, Limited*, v. *London Woollen Company, Limited*, that the rule stated in *Seddon's* case calls for further consideration. I cannot help thinking it is wrong.

It is clear law that an allotment of shares may be set aside for innocent misrepresentation by the company, even after the shares have been taken up and paid for, and it is difficult to see why a purchase of shares or any other property may not equally be set aside, provided always that the right of rescission has not been lost for other reasons.

> Rule 3.—If A, the party entitled to rescind, has been dilatory and thereby leads B, the party who misled him, to suppose that he is not going to avoid the contract, he may be guilty of "laches" and lose his right of rescission. For if B is thus induced to alter his position it would be unfair to let A still set the contract aside.

This rule is, I think, merely another way of saying that if a man has an election to avoid his contract and does nothing, the presumption that he elects to affirm it soon arises. In most of the cases where laches or acquiescence was the ground of decision there has been in addition an element of estoppel, or the accrual of right to third parties.

Duty of Disclosure.

I have hitherto been discussing the effect of active representations. Supposing A knows of some fact which would certainly deter B from entering into the contract if he was aware of it, and keeps silent. Is that the same thing as a misrepresentation? The answer is that in general it is not, but that in certain classes of transaction a positive duty of disclosure is imposed upon the party who in the nature of the business has peculiar knowledge of the facts which are material for the other party to know in order to exercise his judgment upon the desirability for him of the proposed contract. Such is the case in marine insurance, where the assured has a duty of disclosure, and if he conceals a material fact the underwriter may avoid the contract.

Where there is such a duty of disclosure, non-disclosure is equivalent to misrepresentation, and the rules I have stated will, broadly speaking, apply. You will find a valuable discussion of this subject in Pollock on Contracts, Ch. X, Part II.

I have endeavoured to give you the principles of the subject, and I daresay I have completely failed to deal with points that in practice you find important. I shall, therefore, be very glad to answer any questions that you would like to put to me in cross-examination.

Discussion.

Mr. R. F. Silvester, Incorporated Accountant: I should like the Lecturer to refer briefly to the question of ambiguity—one of the great difficulties in misrepresentation. I should like to know whether both parties in that case can rescind.

Sir Leslie Scott: That is a very interesting question. May I deal with the latter part of it first? If a contract is made containing an ambiguous term, that is not a question of misrepresentation; that is a question of interpreting the contract, and the general rule there is this. Let me put it in a popular way as far as I can. If the ambiguity is one which means that one party has been thinking about one thing while the other party has been thinking about something different—as, for instance, in the ambiguity of the description of the subject matter of the contract—as a rule there is no contract. They have not really agreed, and either party can probably get released simply on the ground that there is not a contract. If there is merely a dispute as to what is the meaning of some provision in the contract—it is a written contract—then the Court has to interpret it, and as a general rule there is no release for anybody. They have put their hands to a document and they must stand the racket of it. Whatever it means binds them, because people are held to mean what they have put in writing, and if one did not intend to make that contract—well, he has simply been ill advised and it is bad luck for him. The Court will not allow him out, because it would not be fair to the other party. I do not think the question of ambiguity ever arises in relation to the misrepresentation which is outside the contract, except that it is a question of fact as to whether the man meant what he said. It is for a Judge to say what the meaning of that statement is. It is a question for the Court to decide what is the meaning to be attributed to the words—what is the meaning that sensible people reading the prospectus would understand them to mean.

Mr. W. C. Green, Incorporated Accountant: May I ask a question with regard to misrepresentation in a prospectus? Can we imagine the case of a company with an issued capital wishing to increase its capital, as in the case of Farrow's Bank, where a balance-sheet which was not correct was put in the prospectus dealing with the increase of capital, and on the faith of that balance-sheet people subscribed. They can have their names struck off the register as soon as they are aware of the fact that the balance-sheet was incorrect. Now, does liquidation stop that right of having the register rectified? In the case of Farrow's Bank liquidation comes along, and the facts disclosed then are the first intimation these shareholders had that the balance-sheet was incorrect. The question is whether when they get that information they can have their names struck off, although the company is in liquidation?

Sir Leslie Scott: I understand you to assume a case of persons becoming shareholders—not already being shareholders and taking new shares, but new shareholders coming in on the face of a prospectus which contained that balance-sheet. With regard to shareholders who were not members of the company before, the rule is that on discovery

of the misrepresentation they have the right to rescind; but, as I told you before, if other parties have altered their position during the period that a shareholder's name has remained on the register, as a rule the Court will say it is too late. For practical purposes, in a case of that kind, I do not think it often happens that a shareholder in a liquidation can get his name taken off; it is only when he has become a member very recently—just before the liquidation. In one or two cases it has been done, but as a general rule I do not think it is done.

Mr. F. DUBOIS, Incorporated Accountant: I understood the Lecturer to say that fraudulent misrepresentation would be ground for damages, whereas innocent misrepresentation would be ground for rescinding a contract. If, as the result of innocent misrepresentation, a contract were entered into and one party suffered loss, would he then have the remedy of getting damages or recovering his loss?

Sir LESLIE SCOTT: No; at common law there is no right of action for damages for a misrepresentation, unless it was fraudulent.

Mr. S. E. STRAKER: The Lecturer told us that if a man acted upon a statement, it is to be presumed that he was induced to act on that statement. In our text book one of the differences between simple misrepresentation and fraud is that only in the latter case is it necessary to prove that a man was actually induced to act on a misstatement. Would our Lecturer kindly make the position clear?

Sir LESLIE SCOTT: I did not say that. What I said was that if after a misrepresentation a man does act, and the misrepresentation was of a material fact, the probability is in fact—not in law—the probability is in fact that he was induced by it, but you have to prove that he was induced. There is no presumption of law—none at all.

Mr. C. E. WAKELING, Incorporated Accountant: I should like to put a question in regard to a person making application for shares in a company in the name of a second person without the second person's authority. The company allots the shares to the second person, who ignores the document, and subsequently the company makes calls upon him which he also ignores, and they then threaten to sue him. Is he under an obligation to notify the company that he is not the person who made application for the shares and that someone else must have made use of his name without authority?

Sir LESLIE SCOTT: He is under no legal obligation to do so, but he would be a foolish person if he did not. On the case you put to me, I assume that the man who sent in the application had no authority from the person whose name was used, but professed to act as his agent.

Mr. WAKELING: He did not even profess that; he forged his name.

Sir LESLIE SCOTT: Well, probably inaction in that case would make no difference at all; but if the man professed to act in the name of the person for whom he applied for the shares, then the silence of that person, with knowledge of the facts, might be evidence that he ratified what the man had done. If an agent acts for you, you have the right to ratify or to refuse to ratify. It is another case of election, and the ordinary rule about election applies. When you know the facts and have had time to think over them, you must then act.

A STUDENT: How could they decide what was a reasonable time in which to act?

Sir LESLIE SCOTT: By common sense—no other criterion. I gave you the criterion that has been laid down in the words of a famous Judge. He stated what the words "by common sense" meant. You can take the judgment of a reasonable man, governing himself by the principles upon which men in practice act and the kind of business in hand. If you, as a man of the world, thought that the other man was taking an unreasonable and inordinate time in making up his mind—that he might quite reasonably have come to a decision much sooner—probably that is the kind of guidance. In nine cases out of ten—let me say this with all the modesty of a lawyer—(laughter)—law and common sense are identical. (Laughter.)

On the motion of Mr. PORRITT, seconded by Mr. COLESWORTHY, Sir Leslie Scott was thanked for his lecture, and a vote of thanks was also accorded to the Chairman for presiding.

INCOME TAX (SCHEDULE V AMENDMENT) ORDER, 1927.

The following Order in Council has been issued under date February 7th, 1927:—

Whereas it is provided by sub-sect. (2) of sect. 36 of the Finance Act, 1926, that it shall be lawful for His Majesty in Council by Order to make such amendments of the forms of statements, lists and declarations contained in the Fifth Schedule to the Income Tax Act, 1918, as appear to His Majesty to be necessary to give effect to the provisions of Part IV of the said Act, and that the said Schedule shall have effect as amended by any Order so made:

Now, therefore, His Majesty, in pursuance of the said enactment, is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered, as follows:—

1. The amendments set out in the Schedule to this Order shall be made in the Fifth Schedule to the Income Tax Act, 1918, and the said Fifth Schedule shall have effect as amended by this Order.

2. This Order may be cited as the Income Tax (Schedule V Amendment) Order, 1927.

AMENDMENTS TO BE MADE.

II.—In the heading "Schedule D" shall be substituted for "Schedule A"; for the words from "for one year" to the end of the paragraph there shall be substituted the following: "the amount of dues and money payable in right of the Church, or by endowment, or in lieu of tithes not arising from lands, and the amount of compositions, rents, and payments in lieu of tithes, arising from lands, for the preceding year, or, where the profits or income first arose after April 6th in the preceding year, the amount of the profits or income of the year of assessment."

III.—The following paragraph shall be substituted:—

"III.—By every person carrying on any concern hereinafter mentioned, or his agent or officer, in the cases authorised to be charged under Schedule D.

In the case of—

Quarries of stone, slate, limestone, or chalk;

Ironworks, gasworks, salt springs or works, alum mines or works, water works, streams of water, canals, inland navigations, docks, drains, levels, fishings, rights of markets and fairs, tolls, railways and other ways, bridges and ferries and other concerns of a like nature;

Mines of coal, tin, lead, copper, mundic, iron, and other mines,

the amount of profits in the preceding year;

Or, where the concern has been set up and commenced within the year of assessment, the amount of the profits of the year of assessment, or according to the average of such a period, in no case greater than one year, as the case may require, and as may be directed by the Commissioners, and the period taken, to the best of the knowledge and belief of such person, agent or officer;

Or, where the concern has been set up and commenced within the preceding year, the amount of the profits for one year from the period of the first setting up of the same."

IV.—For the words "on an average of the seven preceding years" there shall be substituted the words "for the preceding year, or, where the profits or income first arose after April 6th in the preceding year, the amount of the profits or income of the year of assessment."

V.—The following paragraph shall be substituted:—

"V.—By the Receiver of any fine paid in consideration of a demise of lands or tenements (except customary) to be charged under Schedule D.

The amount of such fines received within the preceding year, or, where the profits or income first arose after April 6th in the preceding year, the amount received within the year of assessment.

VI.—The following paragraph shall be substituted:—

"VI.—By every person entitled to profits arising from lands, tenements, hereditaments or heritages, not before stated, to be charged under Schedule D.

The amount for the preceding year, or where the profits or income first arose after April 6th in the preceding year, the amount of the profits or income of the year of assessment."

VII.—For the words from "upon a fair and just average" to the end of the paragraph there shall be substituted the following:—

"for the preceding year;

Or, where the trade has been set up and commenced within the year of assessment, the amount of the profits or gains of the year of assessment, or according to the average of such a period, in no case greater than one year, as the case may require, and as may be directed by the Commissioners, and the period taken, to the best of the knowledge and belief of such person;

Or, where the trade has been set up and commenced within the preceding year, the amount of the profits or gains for one year from the period of the first setting up of the same."

VIII.—For the words from "upon a fair and just average" to the end of the paragraph there shall be substituted the following:—

"for the preceding year;

Or, where the profession or vocation has been set up and commenced within the year of assessment, the amount of the profits, gains and emoluments of the year of assessment, or according to the average of such a period, in no case greater than one year, as the case may require, and as may be directed by the Commissioners, and the period taken, to the best of the knowledge and belief of such person;

Or, where the profession or vocation has been set up and commenced within the preceding year, the amount of the profits, gains and emoluments for one year from the period of the first setting up of the same."

X.—In (1) for the words "as far as the same can be computed, arising in the year of assessment" there shall be substituted the words "arising in the preceding year, or, where the income first arose after April 6th in the preceding year, the amount arising in the year of assessment"; in (2) for the words "so far as the same can be computed, of the sums which have been, or will be, received in the United Kingdom, in the year of assessment" there shall be substituted the words "of the sums which have been received in the United Kingdom in the preceding year, or, where the income was first received after April 6th in the preceding year, the amount so received in the year of assessment."

XI.—In (1) for the words "on an average of the three preceding years" there shall be substituted the words "in the preceding year, or, where the income first arose after April 6th in the preceding year, the amount arising in the year of assessment"; in (2) the word "annually" shall be omitted, and for the words "on an average of the three preceding years" there shall be substituted the words "in the preceding year, or, where the income was first received after April 6th in the preceding year, the amount received in the year of assessment."

XII.—For the words from "thereof" to the end there shall be substituted the words "arising in the year of assessment, or according to the average of the period, in no case greater than one year, directed to be taken by the Commissioners on a statement of the nature of such profits or gains, and the grounds on which the amount has been computed, and the period taken, to the best of the knowledge and belief of such person."

District Societies of Incorporated Accountants.

SHEFFIELD.

Mr. Alfred Halkyard (Leicester) lectured, on February 8th, on the "Law of Property Amendment Act" at a joint meeting of the Sheffield and District Society of Incorporated Accountants, the Chartered Accountants, Institute of Bankers and Institute of Secretaries. The chair was occupied by Mr. W. Toulmein, Manager of the Midland Bank Limited, Church Street, Sheffield, and there was a very large attendance.

The Lecturer stated that it was impossible in the time at his disposal to deal with the subject of the lecture in every detail or from any point of view in any particular section of the community, as for the most part it was of such general application as to affect all sections of the community alike.

The particular statutes to which he referred were the Law of Property Act, 1922 (Lord Birkenhead's Act), which attempted to revise the whole law of property in one huge statute to come into operation on January 1st, 1925. It was subsequently found necessary to amend this Act before it came into operation, and to deal with the various portions of the Law of Property Act in their proper classification. Consequently the Law of Property Amendment Act, 1924, was passed, which postponed a portion of the new laws for a year, *i.e.*, to January 1st, 1926.

Classification of the amending provisions was then undertaken in five statutes as follows:—The Law of Property Act, 1925, the Settled Land Act, 1925, the Trustee Act, 1925, the Administration of Estates Act, 1925, and the Land Charges Act, 1925.

Prior to 1926 there were three kinds of tenure or methods of holding land in this country, known as freehold, copyhold and leasehold, and each of these tenures had different incidents attending them, both as to methods of conveyance or settlement and as to devolution upon an intestacy. From January 1st, 1926, however, copyholds are to be enfranchised or turned into freeholds, but certain interests are protected by the preservation of the manorial incidents, such as fines due to the lord of the manor and fees to his steward, &c.

The Lecturer dealt also with the new rules of succession on intestacy, and also gave examples of interests which require registration under the Land Charges Act, 1925.

A vote of thanks was proposed by Mr. C. E. Belbin, Incorporated Accountant, and seconded by Mr. H. E. Jenkinson, Chartered Accountant.

SOUTH WALES AND MONMOUTHSHIRE.

Mr. W. A. Stewart Jones, F.R.Econ.S., of the City Treasurer's Department, Cardiff, was the lecturer at a meeting of the Students' Section of the South Wales and Monmouthshire District Society. Mr. Percy A. Hayes, F.S.A.A., occupied the chair, and was supported by the Vice-Chairman (Mr. Owen I. Thomas), the Hon. Secretary (Mr. J. Alun Evans), Mr. D. H. Husband, F.S.A.A., Mr. W. I. Rodda, A.S.A.A., Mr. A. D. Thomas, A.S.A.A., and a good attendance of members.

The Lecturer took as his subject the "Elements of Economics," and dealt *inter alia* with the following points: Civilisation, science, wealth, production, industrial efficiency, capital, money, commerce, and home and foreign trade.

On the proposal of Mr. W. I. Rodda, A.S.A.A., seconded by Mr. E. V. C. Nicholls, Mr. Stewart Jones was accorded a hearty vote of thanks.

WEST OF ENGLAND.

ANNUAL MEETING.

The annual meeting was held in the Royal Hotel, Bristol, on February 7th. Mr. E. S. Hare (President) occupied the chair, and was supported by the following members: Mr. G. J. Barron Curtis, Mr. S. Foster, Mr. F. P. Leach, Mr. C. B. Steed, Mr. A. J. Moss, Mr. B. Hall, Mr. A. Cotton, Mr. S. C. Osmond, Mr. H. S. Twiggs, Mr. H. H. Bussell, Mr. H. C. Collis, Mr. C. E. Halliwell, Mr. R. F. Emmerson, Mr. H. F. Leach, Mr. A. H. Hill, Mr. T. Shaw, Mr. F. P. L. Roberts, Mr. G. C. Young, Mr. H. W. Kent, and Mr. F. A. Webber (Hon. Secretary).

The annual report and financial statement were approved and adopted.

The election of officers for the ensuing year resulted as follows:—President, Mr. E. S. Hare; Vice-President, Mr. H. M. B. Ker; Hon. Secretary, Mr. F. A. Webber; Hon. Auditor, Mr. C. B. Steed; Committee: Mr. G. J. Barron Curtis, Mr. C. W. Clark, Mr. S. Foster, Mr. H. M. B. Ker, Mr. F. P. Leach, Mr. A. J. Moss, Mr. F. W. Prosser, Mr. C. B. Steed, and Mr. F. A. Webber.

A vote of thanks was accorded the officers and Committee for their services during the year.

Report.

Your Committee have pleasure in presenting the report on the work of the Society for the year ended December 31st, 1926.

MEMBERSHIP.

During the year ten new members were elected. The total membership is now 67, represented by 22 Fellows, 23 Associates and 22 students.

LECTURES.

The following lectures were given, and there was a good average attendance:—

Jan. 11th. "A Talk on Pooling Agreements," by Mr. H. M. B. Ker, F.S.A.A.

Jan. 25th. "The Liabilities and Duties of Auditors," by Mr. H. O. Horton, A.C.A.

Feb. 8th. "Income Tax Claims under Sect. 34 and Rules 8 and 11," by Mr. C. W. Legge, F.S.A.A.

Feb. 22nd. "Law of Property Act, 1925," by Mr. J. A. Crompton, M.A., LL.B.

Nov. 1st. "The Principles of Costing," by Mr. H. E. Davis, A.S.A.A.

Nov. 15th. "The Economic Aspects of Inheritance," by Mr. H. R. Burrows, M.C., B.Com.

Nov. 29th. "Income Tax Amendments of the Finance Act, 1926," by Mr. C. W. Legge, F.S.A.A.

Dec. 13th. "The Theory of Foreign Exchanges," by Mr. H. R. Burrows, M.C., B.Com.

Your Committee take this opportunity of expressing their thanks to the Lecturers and to those members who, by taking part in the discussions which ensued, helped to make the meetings a success.

CONFERENCES.

Your Secretary represented the Society at conferences held in London on April 15th, June 29th and October 30th to consider proposals for the improvement of District Societies organisation. The matter is still under consideration, and a full report of the scheme will be made in due course.

FINANCE.

Your Committee gratefully acknowledge a grant from the Parent Society, and are pleased to report that the financial position is satisfactory.

PRESIDENT'S BADGE.

For some time past the desirability of the provision of a suitable badge has been under consideration by your Committee, and a design has been approved and adopted. The badge, which is to be of gold and enamel, will consist of a medallion bearing the device of the Parent Society, surrounded by the arms, in heraldic colours, of the cities within our area.

COMMITTEE.

Five meetings of the Committee were held during the year. The retiring members of the Committee are Mr. J. S. Dudbridge, Mr. S. Foster and Mr. C. B. Steed, who are eligible for re-election.

YORKSHIRE.

Mr. R. T. McCutcheon, F.S.A.A., F.C.W.A. (Glasgow), gave a paper before this Society on "The Auditor and his Legal Responsibilities" at Leeds on February 8th. He dealt specially with recent decisions in the Law Courts and their importance as a guide to practising accountants as well as to students preparing for examinations. Mr. A. France, F.S.A.A., occupied the chair, and the meeting terminated with a vote of thanks to the Lecturer.

At the eleventh meeting of the session held at Leeds on February 22nd, the members were addressed by Mr. E. Miles Taylor, F.C.A. (London), on the subject of "Investigations in respect of Fraud, Promotion and Purchase of a Business." Mr. Taylor recounted experiences during the course of his career, and impressed the advisability of studying human nature and the conditions connected with each investigation, as well as the accountancy work connected therewith. In the absence of Mr. T. Hayes, F.S.A.A. (Leeds), who was indisposed, the meeting was presided over by Mr. Wm. Gaunt, F.S.A.A. (Leeds). The meeting terminated with a vote of thanks to the Lecturer.

FEDERATION OF CHAMBERS OF COMMERCE OF THE BRITISH EMPIRE.

Forthcoming Congress in South Africa.

Sir Edward Dawson, Bart., presided at a recent meeting of the Council of the Federation of Chambers of Commerce of the British Empire, when the President (Lord Kylsant) was also present. It was reported that the list of federated Chambers of Commerce and Associations of Chambers of Commerce already numbered close upon 150, and included the names of the principal cities in the Dominions, in India and in the more important Colonies. The names of 26 recent adhesions were announced—Chambers in South Africa, East Africa, the Irish Free State, North Borneo, South-West Africa, West Africa, New Zealand, Basutoland, Rhodesia, Nova Scotia and the United Kingdom.

The Council received a report from the Executive Committee upon the arrangements for the eleventh Congress of Chambers of Commerce of the British Empire, which is to take place in Cape Town in October next, and which, with the co-operation of the South African Government, will be followed by a three-weeks tour of the Union and Rhodesia. Some 70 delegates from the United Kingdom alone have already been appointed to attend the Congress.

Amongst the subjects of which notice of motion has already been given by constituent Chambers are the following:—Fixing the date for Easter; the setting up throughout the Empire of arbitration committees which will command confidence; the enforcement of arbitration awards; the assessment to income tax of non-resident principals through their agents; the amendment of the constitution of, and of the regulations made by, the International Telegraph Conference; Imperial education; and the passing in all Empire countries of legislation similar to the British Carriage of Goods by Sea Act.

Reviews.

Ringwood's Bankruptcy Law. *Fifteenth Edition. By Alma Roper, Barrister-at-Law, and G. L. Haggen, M.A., B.C.L. London: Sweet & Maxwell, Limited, 2 and 3, Chancery Lane, W.C. (718 pp. Price 22s. 6d. net.)*

This is an important publication dealing with all insolvency legislation up to date, including the amendments effected by the Bankruptcy (Amendment) Act, 1926, the Bankruptcy Rules, 1925 and 1926, the Deeds of Arrangement Rules, 1925, and the alterations brought about by the legislation of 1925 in relation to dealings with land. This has necessitated the remodelling and rewriting of the text. There is also a large appendix in which is given the text of the Bankruptcy Act, 1914, as subsequently amended, the Bankruptcy Rules, as amended, the Board of Trade regulations and circulars, and a large number of forms; likewise the text of the Law of Property Act, 1925, the Settled Land Act, 1925, the Administration of Estates Act, 1925, the Land Registration Act, 1925, and the Land Charges Act, 1925, in so far as they affect bankruptcy procedure. The book is well indexed and altogether constitutes a very complete treatise on bankruptcy law and procedure.

Formation and Management of a Private Company. *By F. D. Head, B.A., Barrister-at-Law. London: Sir Isaac Pitman & Sons, Limited, Parker Street, Kingsway, W.C. (238 pp. Price 7s. 6d. net.)*

In this book the author deals in simple and untechnical language with the steps necessary in connection with the formation and registration of a private limited company. Taking the case of a small trader converting his business into a limited company, Mr. Head explains the sale agreement and the proceedings at the first board meeting, and gives specimen minutes. He then deals with the statistical books and the opening entries in the books of account, and concludes with an outline of the procedure for converting a private into a public company. The Appendix contains specimen Memorandum and Articles of Association, and the various forms required in connection with registration, &c.; also specimen of sale agreement and a copy of Table A. The book is both comprehensive and concise.

Incorporated Accountants' Students' Society of London.

ANNUAL MEETING.

The thirty-sixth annual general meeting of this Society was held at Cordwainers Hall, 7, Cannon Street, London, E.C., on Wednesday, February 16th. The President (Mr. W. McIntosh Whyte, F.S.A.A.) occupied the chair.

The President said: Gentlemen, the first business on the agenda is to move the adoption of the Report and Accounts for the year ended December 31st, 1926, and in doing so I would like to take the opportunity of shortly reviewing the work that has been carried out during the past year. You will all be pleased to see that our membership is steadily increasing, there being 803 members on the roll at the end of the year as compared with 758 at the commencement. That is quite a good increase, but I should like to see it even greater, and I hope that students will retain their membership after they have passed their examinations, as the lectures given each year are of very great value, not only to students but also to the Associates and Fellows of the Society. During the past year we had lectures delivered by many well known men, amongst whom were The Rt. Hon. Lord Olivier, K.C.M.G., The Rt. Hon. Sir Leslie Scott, K.C., M.P., Mr. Roland Burrows, M.A., LL.D., Mr. Ronald Roxburgh, M.A., Barrister-at-Law, and Mr. A. E. Watson, C.B.E. I am sure you will all hear with regret that the Society has lost the services of the Vice-President, Mr. G. H. Bridge, A.S.A.A., who tendered his resignation upon taking up a professional appointment abroad.

The following officers and Committee were elected for the ensuing year:—President, Mr. W. Norman Bubb, F.S.A.A.; Vice-President, Mr. M. J. Faulks, M.A., F.S.A.A.; Committee: Mr. W. Strachan, F.S.A.A., Mr. Walter Holman, F.S.A.A., Mr. S. T. Morris, A.S.A.A., Mr. A. A. Garrett, B.A., B.Sc., Mr. J. Robinson, F.S.A.A., Mr. H. E. Colesworthy, A.S.A.A., Mr. D. N. Crick, A.S.A.A., Mr. C. E. Wakeling, A.S.A.A., and Mr. W. D. Menzies; Hon. Treasurer, Mr. A. R. King Farlow, F.S.A.A., F.C.A.; Secretary, Mr. James C. Fay; Hon. Auditor, Mr. W. H. Payne, F.S.A.A.

36th Annual Report.

The Committee have pleasure in presenting their thirty-sixth annual report and accounts for the year ended December 31st, 1926.

Accounts.

The accounts show a surplus for the year of £6 3s. 1d. The entrance fees amount to £29 5s. 0d., and the annual subscriptions to £321 3s. 0d. The Committee again desire to express their thanks to the Council of the Parent Society for their financial support during the year.

Membership.

During the past year 117 new members have been elected, which shows an increase over the previous year. At December 31st, 1926, there were 803 members on the roll, consisting of 186 honorary members in practice, 155 honorary members not in practice, and 462 ordinary members. The Committee regret to note that there is still a tendency for student members upon qualifying to cease to support the Students' Society. The Students' Society offers them valuable facilities, and it is hoped they will continue their membership.

Review of the Society's Work.

Meetings were held as usual during the spring and autumn sessions, at which lectures were delivered by members of the Bar and the accountancy profession, embracing a variety of subjects of professional interest.

The Society is particularly indebted to the Right Hon. Lord Olivier, K.C.M.G., Sir Leslie Scott, K.C., M.P., Mr. Roland Burrows, M.A., LL.D., and Mr. A. E. Watson, C.B.E., for the lectures delivered by them.

A series of three lectures was also given during the spring session on "New Legislation affecting Executors, Trustees and Receivers," by Mr. Ronald F. Roxburgh, M.A., Barrister-at-Law.

Certificates of Merit were awarded to two members of the Students' Society in the Final examination, and one Place Certificate in the Intermediate examination.

The Committee have to express their thanks to the Master and Court of the Worshipful Company of Cordwainers for permission to hold the Society's meetings in the Hall of the Company.

The following is a list of lectures and discussions held during the spring and autumn sessions:—

Spring, 1926—

Lecture: "New Legislation affecting Executors, Trustees and Receivers," by Mr. Ronald F. Roxburgh, M.A., Barrister-at-Law.

Joint Meeting with the Chartered Secretaries' Students' Society—Subject: "Mock Shareholders' Meeting."

Lecture: "New Legislation affecting Executors, Trustees and Receivers," by Mr. Ronald F. Roxburgh, M.A., Barrister-at-Law.

Lecture: "New Legislation affecting Executors, Trustees and Receivers," by Mr. Ronald F. Roxburgh, M.A., Barrister-at-Law.

Lecture: "Some Constitutional Diseases of National Public Accountancy," by The Right Hon. Lord Olivier, K.C.M.G.

Lecture: "Some Principles of Cost Accounts," by Capt. H. E. Davis, M.C., Incorporated Accountant.

Lecture: "Insurance Accounts," by Mr. W. H. Grainger, Incorporated Accountant, Chief Accountant, Prudential Assurance Company, Limited.

Autumn, 1926—

Lecture: "Points on the New Income Tax Act," by Mr. W. D. Elgar, F.C.A., Incorporated Accountant.

Lecture: "Foreign Exchange in London To-day," by Mr. H. W. Phillips, Lecturer to Bankers' Institute.

Lecture: "The Science of Comparison," by Mr. W. J. Back, Incorporated Accountant.

Lecture: "Misrepresentation in relation to Contracts," by Sir Leslie Scott, K.C., M.P.

Lecture: "Dominion Produce Marketing Schemes," by Sir James Cooper, K.B.E., Incorporated Accountant.

Lecture: "Holding Companies, with special reference to the Companies Law Amendment Report," by Mr. Robert Ashworth, A.C.A., Incorporated Accountant.

Lecture: "General Advice on Examinations," by Mr. Roland Burrows, M.A., LL.B., LL.D.

Lecture: "Government Accounting," by Mr. A. E. Watson, C.B.E.

"TRANSACTIONS."

The thirtieth volume of "Transactions" for the year 1925 has been published, and distributed among the members.

OFFICERS AND COMMITTEE.

Mr. G. H. Bridge, who has held the office of Vice-President for the past two years, and was previously a member of the Committee, has tendered his resignation upon taking up a professional appointment overseas. The Committee desire to place on record their appreciation of the valuable services rendered to the Society by Mr. Bridge extending over the period of fifteen years.

Under Rules 3 and 5 the officers and members of the Committee and under Rule 10 the Honorary Auditor retire from office. The remaining members of the Committee, the Honorary Treasurer and the Honorary Auditor, being eligible, offer themselves for re-election.

The accounts, duly audited, are annexed to this report.

Dr. REVENUE ACCOUNT FOR THE YEAR ENDED DECEMBER 31ST, 1926. **Cr.**

	£ s. d.		£ s. d.
To Printing	87 11 6	By Annual Subscriptions	321 3 0
,, Stationery, Postages, &c.	53 2 3	,, Entrance Fees	29 5 0
,, Reporting Charges	42 8 11	,, Dividends (*less* Tax)	15 14 2
,, Hire of Hall for Lectures	39 7 6	,, Grants from Society of Incorporated Accountants and Auditors	52 10 0
,, Publication of "Transactions"	153 3 6	,, Sundry Sales	7 6 7
,, Secretary's Honorarium	31 10 0		
,, Clerical Assistance	12 12 0		
,, Balance, being surplus of Income over Expenditure for the year	6 3 1		
	£425 18 9		£425 18 9

BALANCE SHEET, DECEMBER 31ST, 1926.

		£ s. d.		£ s. d.
To Sundry Creditors		26 18 0	By Cash at Bank	186 5 0
,, Subscriptions paid in advance		6 3 0	,, Investment:—	
,, Revenue Account:—			£388 4s. 5d. 5 per cent. War Stock 1929-47 at cost	366 13 4
Balance at Dec. 31st, 1925 ..	£513 14 3			
Add Balance as above ..	6 3 1			
		519 17 4		
		£552 18 4		£552 18 4

A. R. KING FARLOW, *Hon. Treasurer.*

I have examined the foregoing Accounts for the year ending December 31st, 1926, together with the Books and Vouchers of the Society, and find the same to be correct. I have also verified the Investment and the Cash at Bank.

W. H. PAYNE, *Incorporated Accountant,*
Hon. Auditor.

LONDON, *February 2nd, 1927.*

General Advice on Examinations.

A LECTURE delivered before the Incorporated Accountants' Students' Society of London by

MR. ROLAND BURROWS, M.A., LL.D.
(Barrister-at-Law).

The chair was occupied by Mr. E. CASSLETON ELLIOTT, Incorporated Accountant.

Mr. BURROWS said: I must thank you for coming on such an inclement night to hear a lecture; such zeal almost deserves a straight run through without examination. Still, I do not suppose the Council will look at it in quite the same way as I do, and I propose to discuss with you what I may call the technique of examinations. Now, I think we do not as a rule realise that the writing of answers to questions at an examination is an art with a technique, and it is because so many students come into the examination hall without having given adequate attention to the subject that they go down. Remember this: that an examination at best is a very imperfect way of testing your knowledge. There is the whole subject that you are supposed to know. The examiner cannot possibly ask you the whole of it, and so his questions are directed to some points which he selects from the whole of the subject. It is always possible for him to select the questions which are the only questions that you can answer, and it is also possible that he may select just those very questions that you cannot answer. A man may have a very poor knowledge of the subject and do well in the examination, and a man may have a very good knowledge of it and yet do badly. But my experience is this: that it does not often happen that a man has luck. The man who gets through, and does well, is the man who knows his subject, but, quite apart from that, as the examination is a written examination, and the examiner does not know you, and can form no idea of what you know, except from what he reads, it is up to you to put what you know before him in the most attractive way possible, so as to get full value for what you have read and done.

First of all, let me say something about the final stages. You ought to have finished your preparation before the examination, and I mean by "before the examination" a sufficient time to enable you to get a rest. In my view there is such a thing as mental indigestion. The brain can only take in a certain number of impressions in a given time, and if it is full up and you crowd some more in you get into the position in which you are knocking a nail out for every one you can get in. The consequence is, you are not able to appreciate even the reading which at one time you could appreciate. Remember this, too, that there is an intimate connection between the mind and the body. If the body is not right, then the mind does not work properly, and you ought to see that you come into the examination as fresh as you can. My own practice—by the time I had passed a sufficient number of examinations to learn a little sense—was this: My examination usually started on a Tuesday morning. On the Friday afternoon I shut my books up and went into the country for the week-end. I spent the week-end in the open air and had a certain amount of exercise, and came back feeling quite fresh. On the Tuesday morning I went into the examination, and felt like pushing down the side of a house—in that mood I went in. My mind had, during the rest, arranged what I had read in a proper order, so that it gave me the least fatigue in reproducing what the examiner wanted. What you read in the last five minutes is seldom going to be of any good to you.

So much for the immediate preliminaries. Then there is one thing that I want to mention, because I have been asked by students about it—that is, the question of stimulants. Do not take any special stimulant before you go into the examination room. I am not speaking either as a supporter or an opponent of teetotalism, but an examination which lasts from one to two-and-a-half hours is not a test which can be passed with the assistance of a little dope. Race horses are things which are sometimes doped, but their races last only a minute-and-a-half to three minutes, whereas an examination lasts a considerable length of time. Remember this: that alcohol has an exciting effect for about ten minutes, and after that it has a depressing effect; and the first ten minutes in an examination room, when one feels cheerful, are dearly paid for by the corresponding period of depression. Do not try any new-fangled tricks one way or the other: just live your ordinary life, and come with as sound a mind and body as you can.

Before coming into the examination room in the last stages of your examination, you should, if you want to do well, have worked on your own through some previous examination papers under examination conditions; that is to say, you should have gone into your room, taken a past paper and the necessary amount of blank writing paper, and sat down without any books or papers of any kind and worked through the examination paper just as if it were one you were sitting for. Having done that, proceed to examine your own paper. You will be able to derive this advantage from that practice. First of all, you will be able to spot some unsuspected weak points and you can correct them; secondly, you get the advantage of some guide as to the time you should take, so that you will be able to know whether you are working too slowly in order to do justice to the paper, and practice will enable you to speed up. Then, of course, it has the advantage in itself of enabling you to arrange the answers. You have done it, you have gone through it with the books, and you can see how your form and arrangement of answering examination questions compares with the treatment of it in the books, and then you will be able to devote some time and attention to the right and proper way of framing an answer to an examination question. It may also have the advantage—I do not say it will—if the examiner who set the paper you are doing is the examiner who is going to set the paper in the examination, you might have some idea of the way in which his mind works, and that is no disadvantage.

Having got into the examination room, there are three cardinal principles which you should follow. Endeavour in the course of your preparation to have got yourself to that pitch of perfection whereby you can, first, think clearly; secondly, write plainly; and thirdly, keep to the point. Remember this, that a written examination is one of those examinations where you must put all your goods in the shop window. If the examiner does not see the goods he wants there, he cannot possibly come inside and ask; you have got to put it all on the paper, and if it is not on the paper, what is not there goes for nothing. The consequence is that if you do what a great many students, I find, do: miss out what they know, do not take the trouble to put it down—they get no credit for it. That is something you have got to guard against.

Now, first of all, what do you do when you get the paper? I suggest that the first essential is to spend a few minutes—ten will be quite enough—in reading it through carefully; reading it through and trying to find out what it means. Do not try and formulate the answers; just carefully read it through, in order to select those questions that you are going to answer and the order in which you are going to answer them.

When you are starting, after that preliminary reading, on your first question, do the answers one at a time; and I mean by that, not the obvious fact that you cannot write more than one answer at a time—of course you cannot—but that you should forget the others at the time you are writing the answer, so that the only thing to which your attention is directed is the answering of that particular question. While you are writing the answer to one question, the others for the time being do not exist at all. In that way you will not distract your mind by considerations which, for the purposes of that question, are quite irrelevant.

As to the order in which you should do the questions on the paper, that is a matter which you must solve for yourselves. The best order for the examiner is the order in which they appear upon the paper. I think that the best order for the candidate is probably to put first the questions that he can do best. But I am not so sure that the ideal order, from an examinee's point of view, is to do, first of all, the question which he can do very well, and then follow it up by the two he can do best, so that the examiner may get the impression that he is going from strength to strength, getting better as he goes on. But that is a mere matter of detail. The best order for a student is to take them in the order in which he thinks he can do himself most justice, and, for that purpose, do not have regard necessarily to the order which pleases the examiner. It is not much inconvenience to him to find the questions answered in a different order to that on the paper.

In formulating your answer have regard first of all to logic; secondly, to grammar; and thirdly, to completeness. First of all, logic. I mean by logic the exercise of the reasoning powers, applying your common sense in the examination room, and it is very desirable that candidates should bring their common sense into the examination room. After all, God gave them intelligence, and the examiner hopes that they will use it; therefore your common sense is a very good weapon for you to avoid absurdities.

Take, for example, a question such as this: What are the duties of an executor? The logical order is really to say what he does in the order in which normally he may do it. If you start by saying that his duties are to distribute the estate among the residuary legatees and then to advertise for debts, and then you go on to say that he must prepare an estate duty account, and then that he collects the assets, and then that he applies for a probate, and then that he pays the legacies, and then that he pays the death duties—all those are things that he does. But he does not do them in anything like that order. And when you come to think of it, no man in his sober senses would try to do them in that order.

Putting aside the burial, what does he do? The first thing he does is to set about finding out what the estate is and what it is worth. The next thing he does is to apply for probate, and for that purpose he must make out an Inland Revenue affidavit, and before he can get probate he must pay at least some part of the duties, so he must either collect or realise some of the estate or arrange for a loan from the bank to pay the duties; and, having got assured of the money that he must pay to the Government before he obtains the probate, he applies for probate. When he has got it, what does he do first? Before he pays the debts, he collects sufficient assets out of which to pay them. Now, you see from my statement—I have not gone through it in detail—that you can put down on your paper what an executor can do in such an order that no man in his sober senses would endeavour to do it in that order. If you have got the logical order in your mind you will be able to make a complete statement, but if, on the other hand, you dodge round you are almost certain to leave something out.

Another thing about your common sense is this: Remember that if you are not watching, you are apt to say things which are absolutely ridiculous. Students—even those who desire to become accountants—are apt to talk about the bankruptcy laws applying to companies, and suggest that a man may present a petition in bankruptcy against a company. I should think that it is a very good sporting bet that if every one of those who makes that statement in the examination paper were brought up and asked *viva voce* whether a petition in bankruptcy could be presented against a company, he would say "Of course not. Who on earth would ever think of saying so." And the answer would be "You did, for one."

I will give you another example which comes from the other branch—from the legal profession. A gentleman told me the other day, in an examination paper, that a criminal information was one that was conducted in the police court, by a police constable, with the assistance of the Solicitor-General. (Laughter.) Now, the Solicitor-General is a high officer of state, as you very well know, and a police constable is a very humble individual, or he may be until the precise moment when he lays his hand upon your shoulder; and the idea that one of the law officers of the Crown should have, as part of his function, dodging round obscure police courts—not even conducting a case for a police constable, but assisting a police constable in a case—is absurd. But if that man had been had up by me and asked what he meant by it, he would have admitted at once that it was perfectly ridiculous. You have to guard against slips of that kind.

Then there is completeness. Over and over again I find that a question that is in two or three parts is only partly answered. A man writes a very satisfactory answer to the first two parts of the question, and he has got very nearly full marks for it, and for the rest of the answer there is a blank. Did he know, or did he leave it out because he did not know? The examiner judges upon the written word. He can give no credit to a man who does not help him by telling him something, and so the candidate, who might have got full marks for that question, has lost a considerable portion of them because he never took the trouble to look and see whether he had answered the whole of the question.

The second point I want to dwell on is the question of hand-writing and grammar. Remember that the examination is conducted in the English language—that is to say, in English as it is spoken and written by people of education. I find in some of the papers curious English, and sometimes I am brought up all standing to find out what the person means. It is bad enough to be told that the grounds of an application *is*. "Grounds" is plural, and "is" is singular. I was also told that "a person has to give their names in." That is an indication of a slovenly way of thinking on the part of the person who writes it. But sometimes it is so obscure that one cannot do more than formulate a guess as to what is meant. Can any of you tell me what this word means—"Parricolar"? I have had it within this last week. I will tell you what it is. The word is "parochial." I take some credit for myself that I was able to find out that that was what it meant. Does the man mean me to mark him on the basis that he said "parochial," or that he wrote down something which is stark nonsense? Which does he expect me to do? He is not helping me; and, incidentally, I might tell you this, that the sentence in which that word appears had got nothing to do whatever with the question at all. A man who spells like that as a rule is not a man whose mind is either logical or accurate.

But a much more serious question, from the point of view of an examiner, is handwriting. I do not suppose you can have the slightest conception of the strain there is in reading masses of manuscript. Examiners are appointed because they know something about the subject on which they are examining, they are not appointed because they are experts in handwriting. Still less are they appointed because they are experts at deciphering hieroglyphics. I take some pride to myself that I have never yet, in the twenty years that I have been examining, been completely beaten by a student, but there are occasions when I have had to spend five or ten minutes in order to find out what it is that the man has writ'en, and I do not think that I am bound to do that. If a man does not write in such a way that I can read him as I read, then it seems to me that I am entitled, if I think fit, to consider that it is not written at all and pass on. I have not done it yet, but the strain upon a person reading a manuscript is great enough when the manuscript is entirely legible. It is extremely difficult when the manuscript is not legible at all. Remember this, that the time allowed you for the examination is a time in which a person can write in good handwriting. If you have got a logically orderly and neat mind you have got time enough to write well, and then, of course, you please the examiner. If you have had a little practice beforehand, and then read your answers, you will have some idea of the hardships of bad writing, and you will practice writing legibly once more. One thing might I ask you to do. Whatever bright ideas you have on the subject of spelling, it is at least tactful, if a word is spelt in the examination paper, to spell it in the same way when you are writing the answer. Even if the examiner does not know how to spell it is as well to humour him; and when it happens, as it does usually, that he is right and you are wrong, it is not doing you any good. Remember that, with regard to handwriting, a man who writes well does get himself on good terms with the examiner.

Then comes the question of answering examination questions. Keep to the point. Answer the question, answer the whole question, and answer nothing but the question. The question to be answered is the question which appears upon the paper. That is what the examiner wants to know about; he does not want to know about some other question. Candidates who, seeing the question on the paper, consider that it is not the sort of question that a gentleman should be asked to answer, and propose to answer another which is not asked, are like the person in a poem you will remember, who—

"Smiling, put the question by,
And let the soft impeachment lie."

In this case the soft impeachment is that he does not know: that is why he does not answer. And the curious thing is that those who write an answer to a question which is not the examiner's are as a rule tactless enough not even to answer that question properly. That is a piece of bad manners.

There is a story—true, I believe—of a young man at Cambridge who was going up for an examination and was told that the one thing that examiners would be sure to ask was about the *binomial theorem*. When he came to answer the examination paper, he was asked to explain the action of a common pump. He did not know; so he wrote: "Before you can understand the working of a common pump it is necessary to understand the *binomial theorem*," and then he began to say what he knew about the *binomial theorem*, and said nothing about the common pump. Curiously enough, he did not get through, and he considered it a great hardship!

Confine yourself to the question. Remember that examiners take a lot of trouble to tell you all the relevant facts. I often get told that the question does not say, for example, whether there is a contract in writing or whether there is not. Suppose my question does not say it. I am as well aware of that as you are. If anything turns upon the presence or absence of it in writing, you should deal with it in your answer, but do not, for heaven's sake, as many have done, assume that because an agreement is not in writing it is not an enforceable contract. There are plenty of enforceable contracts which are not in writing.

Then comes the point—answer the whole question. Look at it and your answer when you have finished. I believe a great many students never look at the question after they have finished with it. Compare what you have done with what is asked. If there is anything which you have not dealt with, two minutes will complete the question, and then you will have done yourself justice.

Then we come to "nothing but the question." Avoid comments. Do not tell the examiner that the question is a very good one; he thinks so already. Do not tell him it is a bad one; he won't respect your judgment. He thinks it is a good one or he would not have set it. And it does not help you. You are merely giving the examiner something to read, which does not advance the matter at all. You are not getting any marks for it, and your opinion about the merits of the question is of no interest to anybody but yourselves. You can express it very forcibly to your colleagues. Of course there are occasions when there is an ambiguity, and you are honestly not clear what the meaning is. Then you are permitted, and it is as well, to indicate to the examiner that you can see one or two possible meanings, and that you have decided that the thing aimed at is the following meaning—so as to indicate your understanding of the wording of the question. But do not do it unless you are really puzzled. Think for a moment before you do it. It may be that it is you who are not clear, and not the question. That frequently happens. I find no indication that a question is not clear when, out of 180 people, only one man has found it obscure. The other 179 have had no difficulty in finding out what the point was. In these circumstances I am inclined to think that it is the candidate who said it was not clear that was wrong, and not me.

Another thing is, avoid extraneous matters. Frequently a topic suggests to your mind something which is not relevant but is interesting, and you feel tempted to go on and talk about it; but to deal with topics that are not germane to the subject, or which are entirely irrelevant to it, is wasting time. You are not asked for your views on the subject. If you volunteer them they won't do you any good, and if you are wrong they will give some indication as to the depth of your ignorance. In fact, if you do not answer what you are asked and do answer what you are not asked, you may raise what is called in the law the irrebuttable presumption of ignorance.

And then complete—at least the sentence. I have been an examinee myself and I have never been caught in such a position that I could not complete a sentence. I was recently looking at a paper on which a gentleman had noted with regard to two questions that he had not had time to complete them. I wondered how he found time to write that note; he would have been much better occupied in trying to complete one of them. And one gentleman left off in the middle of a sentence, carrying it on sufficiently to show what it was about, and had made a note to the effect that "time" was called and he had to leave off. If he had time to write that, he certainly had time to complete his sentence.

That is an old trick that examinees do indulge in—leaving off in the middle of a sentence to give the idea that, but for time, there would have been a vein of rich gold, and therefore the candidate ought to get full credit for that rich lode that has not yet been worked. But remember this: the examiner has been working the "gold mine," known as the examinee,

and he has got all the workings on that lode, so far as it has been worked, in front of him. If he knows how many ounces of gold there are to the ton of quartz in the work he has seen, do you think that the examiner is going to assume that he will get more "payable dirt" in the stuff which he has not seen than in what he has seen? I do not think so. In point of fact, whenever I find a man who says he is unable to finish a sentence because of lack of time, I always look back to find what I have been missing, and I find almost invariably this: first of all, that there is no indication in the workings which I have inspected to indicate the presence of gold in payable quantities at all; and secondly, that what he has written in the time allowed to him in the examination could well be written in twenty minutes or half an hour. What has he been doing the rest of the time? Certainly not paying attention to the question. It is important to complete, and you can complete the sentence, and I suggest to you that if you pay attention to working according to a schedule—that is, keep the quantity that you have to do in your mind, and keep an eye on the clock when you have finished a question—you can tell whether you have plenty of time or whether you have to hurry up a bit. A man working steadily, I can tell you, can cover the subject completely in the time that is allowed; an examination paper is designed for that purpose, and very many candidates can do a very satisfactory paper and the whole of it in the time.

Then, another thing, too: check off the questions with the question paper, so as to make sure you have left none of them unanswered. I find candidates, who think they have answered the question paper, who have missed out one or two questions because they have not taken them in order and have not taken the trouble to check them off. If you check them off, then you know, if you have missed out a question, that you have deliberately done so and not by a regrettable accident.

You may think that all this that I have been saying is trite—something which everybody has heard of already—and that it is quite unnecessary to make observations of that kind. A great many of you, I have no doubt, have no need whatever to pay attention to such observations, but my experience during the last 20 years has been this: that a great many people do need a little advice along these lines. The method that I have been suggesting to you is a method which I have followed myself, and with some little success; and when I have disregarded the injunctions which I have been repeating to you to-night I have paid for it. The examiner wants to pass you. He can only pass you if you let him; co-operate with him, play up to him, give him your best, and if you have got the intelligence which an ordinary human being has got, if you have read honestly and paid attention, then you are bound to get through, and he will be very pleased to let you through.

The length of an answer to a question depends upon the question. There is no rule upon the subject which you can follow, which is of any use, except a purely general observation. The answer to an examination question should be long enough to cover the subject and short enough to be interesting. I know no other rule, but I think it is a very good rule.

Now a final word. If you have prepared honestly, if you come feeling fit, and if you have done your best, then you may safely leave it to the examiner, who will be only too pleased to certify that you are fit for the profession to which you aspire to belong. Remember this: that you and he owe a duty to the profession and to the public. A candidate who is allowed to go and practise as an accountant without having a proper and sufficient knowledge of the subject is going to do himself a great injury and his clients a great deal of injury too. If you aspire to belong to the profession, remember this: that your usefulness is bound up in the good that you can do to the public, and the public is interested in seeing that it is served by competent servants who know their work. If you consider yourself in that light, you will see that the examiner owes a duty not merely to let you through if you have done your work adequately, but he owes a duty to the Council of this Society and to the public that he shall not let you through if you do not, because you will not only be a danger to the public, but you will be doing no good to yourself.

Discussion.

Mr. ADDISON: I would like to ask the Lecturer, in view of what he has been saying about not giving one's views in answering a question, how a candidate should answer a question about which he is perhaps doubtful? Should he put down what he believes the answer to be, or should he leave it blank?

Mr. JUDD: How is one to deal with a misprint in a paper?

Mr. BAILEY: As regards the time, which Mr. Burrows tells us is always adequate, I have found myself that, although that is true in some cases, it is not true in all. Has Mr. Burrows worked the questions out himself to see how long they should take? Then as regards ambiguous questions—some of them certainly are ambiguous in the way they are put. Suppose the question is: "Define acceptance?" in a law paper; how many answers are you going to get to it? In one examination recently that I was in—an accounts paper—there was not time for all the questions to be answered. They are three-hour papers, and they kept me going all the time; in the last paper all I could do was to fill in one-and-a-half hours out of the three hours. I do not know whether the examiners had worked those questions out themselves.

Mr. A. A. GARRETT: We are very fortunate in having Mr. Burrows to give us this paper, because he will not mind my saying that he is both a most successful examinee and some candidates will find he is a more than efficient examiner. (Laughter.) Mr. Burrows has had a very distinguished career at Cambridge and London Universities, so he speaks from a first hand knowledge as an examinee, and also as an examiner to a number of public bodies. Apart from the details of examination work, I think we must cultivate a sense of proportion as to the meaning and effect of examinations. They are an essential part of professional training and study, and I am sure Mr. Burrows will agree that it is a mistake for candidates to get into that frame of mind when they regard them—not deliberately, perhaps, but none the less they come to regard them—as an end in themselves. This brings me back to the important question of the system of training and education for these examinations. Coaches have done most valuable work, extending over the whole history of the Society. The nature of our occupation, when people are away from London, in different parts of the country, makes it difficult perhaps to attend regularly systematic courses of study, such as might be given at a university or at some public educational institution, and therefore recourse is necessarily had to systems of correspondence coaching. But for all that, it is most important to eliminate what I might call bought knowledge. I have seen one or two anæmic text books that are handed out to candidates; they are surprising in their ingenuity, but they may produce, perhaps, not too satisfactory results. And I may venture to refer to the important question of preliminary education. In these days, with many highbrow ideas about education, I think sometimes the elementary virtues of composition, writing, arithmetic, and perhaps mathematics, may be overlooked. These capacities or qualities are not merely valuable for passing examinations, but they have a considerable professional value, in report writing, in the method of thinking and in working out problems. It is most valuable that people should come to the Intermediate examination able to write decently, able to express themselves fluently, and with a certain amount of flair for mathematical problems, so that they can handle accountancy problems with ease. Some people have suggested that there is not necessarily a connection between examination success and success in a professional career. True, one may offer criticisms in that direction, but a perusal of the Society's Year Book will show that people who have

done well in the examinations have generally succeeded professionally, and it must be remembered that professional examinations are not like scholastic education: they are a regular part of a training, and when all has been said that there is to be said against examinations they remain a test of grit, of concentration and of character.

The CHAIRMAN: I would like to say just a word or two. I am afraid some of you came into the room expecting to receive something quite different from what Mr. Burrows has given you. I do not know whether you hoped that he was going to give you some idea of what his papers would be next November. (Laughter.) If so, the only opinion you could possibly have gained is with regard to contracts, when we were told that certain contracts were enforceable whether they were reduced to writing or not. I think you can therefore rule that question out as not likely to be set. What I do feel about Mr. Burrows' paper is that he has given us some very honest truths in very homely language. As he said at the end of his paper, it might be called "trite." At the same time, I do think it is necessary to lay great stress on the points which he has endeavoured to put before you—points which I will not repeat here—which are just as necessary for the examination and far more necessary for the profession when you come into it later on. Mr. Burrows, having passed about 50 examinations successfully, is well qualified to speak on this subject, and the proof of his knowledge is the way in which he has succeeded. I am simply calling him Mr. Burrows because he says that is quite good enough for him, but if I attempted to give you all of his designations I am afraid you would get tired and he would not like it. The great test of an examination is, first of all, that you have to study; you have to gain your knowledge in order to be able to pass the examination. But, later on, when you come into the profession, or when you practise, as I hope a great many of you will do, if a client comes along to see you, he will not stay with you very long if you say "I must just look this up," or "I will find that out." What a client expects you to do—to-day, anyhow—is to be able to discuss immediately the problem with which he confronts you and to give him your opinion. Therefore, having gained your knowledge from studying for an examination, you still continue your studies afterwards. You are studying all the time, so that when your clients come to see you you are well prepared and able to give him an answer which, if incorrect, you may have an opportunity of correcting later. I think that might possibly answer one of the questions which has been put to Mr. Burrows. I do feel, if you are at all doubtful of your answer, you should give the answer. It may be right, and, if so, you will get the marks for it; if it is wrong you will be no worse off. I do not know that there is anything more I can say at this point, except to thank Mr. Burrows, so far as I am concerned, for his able lecture. I would like to say how much I have appreciated the way he has put the subject before you, and I think you have appreciated it, too. He did it so clearly and so simply that we cannot go away without feeling, whether we expected a lecture of this kind or not, that we have derived considerable benefit from it. I will now ask Mr. Burrows to reply to the questions.

Mr. BURROWS: There is one advantage at all events in having seen an examiner in the flesh—you see he is not such a terrible person. With regard to the first question, Mr. Addison said, "Suppose a man is doubtful, what is he to do? Well, suppose you were standing at the seaside in bathing costume, doubtful whether you would like a swim or not, what would you do? It depends on circumstances, doesn't it? If a man is of a timorous turn of mind he just puts his toe in and turns back, but if he be of an adventurous disposition he jumps in and says, "At all events, if I do not like it I can come out." It depends entirely on whether it is a question of fact or of opinion. If you are asked your opinion, obviously, if your opinion is a hesitating one, it should be expressed hesitatingly; if, on the other hand, it is a question of fact, you ought to know, and if you are doubtful on the subject that is your fault and not the examiner's. That of course follows as the night follows the day. Then Mr. Judd asked, "How are you to deal with a misprint?" I had a misprint in an examination myself once, and it threw me clean wrong. As a matter of fact, it was only after I got out of the examination room that I realised that if I had only thought for a moment I would have seen what the word should have been. Still I was clean wrong. I called the attention of the examiner to the fact that there was a misprint; I put a note to that effect at the beginning of my answer. It could not have done me any harm, because I came out top in the examination. With regard to Mr. Bailey's question, he asked, "How can I tell that the time is adequate?" Well, I have sat for an examination or two myself, and I have set an examination paper or two since then. I have seen thousands and thousands of sets of answers to questions that I have set, and if I do not know by now what is a reasonable amount of questioning for a reasonable amount of time, then I do not know my job. That is one answer. The other answer is this: you need not assume that an examiner is an irresponsible autocrat who sits down in a chair and says to himself, "Now I am going to examine these blighters. I am going to give them something that will make them sit up. I will get them on the stretch," and dips his pen in a mixture of gall and wormwood. If he did that he would find—if he did not know it already—that before the examination questions got on to the paper, that paper runs through a series of criticisms by people who know their jobs, and if his paper is not a fair one, either as to what it contains or as to the time it would take to answer it, he hears somebody else's view on the subject long before you have seen the paper. A good deal of time and trouble is taken to see that the question paper is not only fair but is not too burdensome. If you were to set a law paper for a person like the late Professor Maitland, one of the greatest lawyers we have ever seen, the probability is that he would not be able to finish even the first part of the first question in the time allotted because he knew so much about it. But one does not expect that from you: we are satisfied with much less than that. What does one expect? One expects a reasonable answer, having regard to the age and reading of the man, if he is an ordinary normal individual who has gone through the ordinary normal preparation. The standard is fixed, and I do not think I am giving away any secrets when I say that full marks will be given for an answer which is within the compass of a man of intelligence who has read properly. One does not expect a learned Pundit; one does not expect a mathematical genius. What one expects is a well read man of intelligence of the age that the student is expected to be, and that is the standard for the marking of the papers. That is why I say that if you are born an ordinary man of intelligence and have read your books properly and studied what you are going to do, you will be able to get through. Most people fail either from carelessness and inattention in their reading, or carelessness and inattention at the examination. A few people fail to get high honours because they over read, but few students stand in danger of this. Remember that what one has got to do in order to pass an examination—which is to be of use to you, not as a hurdle to jump, but in after life—is that you should understand the principles; if you understand the principles, and do not do it as a matter of mnemonics—learning by rote—if you have got the application of the principles, then you can apply them in the examination room. But if all you have got is a series of data learned by rote, if you do happen to mis-remember them then you cannot convince the examiner that you know anything about the subject. He has nothing else to go by: all he has got is a series of mistakes. Perhaps I am keeping you too long, but what I desire to do is to help you, if possible, to help the examiners, so that they may with pleasure pass you, and profit may be the result.

On the motion of Mr. HERBERT E. DAVIES, seconded by Mr. WYLAN, a hearty vote of thanks was accorded to the Lecturer. A similar vote was passed to the Chairman for presiding.

Society of Incorporated Accountants and Auditors.

WE are requested to notify that the Telephone Numbers of the Society's office at 50, Gresham Street, London, E.C.2, have been changed. The numbers now are: CITY 6944 and 6945.

COMMISSION FOR OBTAINING EMPLOYMENT.

Laurie & Co. v. Squire.

In the Mayor's and City of London Court on February 17th, before Mr. Registrar Dell, a claim was made by Messrs. Laurie & Co., employment specialists, 28, Bas nghall Street, London, E.C., against Mr. F. H. Squire, accountant, 134, Blagdon Road, New Malden, Surrey, for £4, balance of commission due.

Mr. Rusden (counsel for the plaintiffs) said on October 18th, 1925, the defendant signed a contract by which in the event of the plaintiffs obtaining him an appointment as an accountant he agreed to pay them a commission of 5 per cent. on the salary or remuneration for the first year. The plaintiffs introduced the defendant to the firm of Spire King & Co., of New Cross, London, S.E., and he was engaged as an accountant at a salary of £250 a year. The plaintiffs claimed to be entitled to £13 commission, being 5 per cent. upon the yearly earnings of the defendant. The defendant had paid altogether a sum of £9. and the plaintiffs were now claiming the balance of £4. The defendant had admitted having been employed by the firm to whom he had been introduced by the plaintiffs for a period of eight months. By a clause of the agreement in the event of the employment terminating within six months plaintiffs would return half the amount of commission, but as the defendant had been employed for eight months plaintiffs claimed that they were entitled to the full £13.

The defendant said when first introduced to the firm who engaged him by the plaintiffs, it was understood that it was a permanent position, but for three months he was only engaged temporarily, and liable to be dismissed at a week's notice. He admitted having signed the agreement, but thought he had paid the plaintiffs sufficient for eight months' employment. He continued to work for the firm until the partnership was dissolved, and then two of the partners set up in business in Woolwich, and he continued with them until some time in August or the beginning of September.

The Registrar: The only question I have to decide is whether upon the agreement you signed you undertook to pay commission on a full year's salary.

The Defendant: Is it fair to pay commission on twelve months' salary that is not received?

The Registrar: You may discover that the agreement is not so good as you thought.

Continuing, the defendant said the plaintiffs must have known that the position to which they introduced him was only a temporary one, but the Registrar remarked that no employment agency could guarantee permanent employment. The person introduced for employment might be a good man, and the business to which he was introduced might be unlucky. He (the Registrar) was afraid, under the terms of the agreement, the defendant was liable to the plaintiffs for the sum sued for.

Judgment was entered for plaintiffs for the amount claimed, with costs.

Addressing counsel for the plaintiffs, the Registrar said that, apart from the legal view, he felt that, taking all the circumstances into consideration, the defendant had paid the plaintiffs enough for obtaining the appointment.

PROFESSIONAL FEES.

Not before it was time, Judge Shewell Cooper has expressed his views on the subject of the tendency to depreciate, by quibbling at the fees, the services of professional men. Constantly at the Mayor's and City of London Court we find that professional men like solicitors and accountants, with on occasions a medical man, are compelled to sue for services rendered, and in nearly every instance the defence, if it can be called a defence, is that the fees asked are more than the defendant expected to have to pay. Yet those fees are invariably according to scale, except when, as is not infrequently the case, a very generous reduction is made in the interest of the client. All too often the cost precedent to qualification is entirely disregarded by the layman.—*City Press.*

AMERICAN INSTITUTE OF ACCOUNTANTS

We have received the Year Book for 1926 of the American Institute of Accountants.

This publication not only includes formal matter, such as list of members and regulations, but also an account of the meetings and activities of the Institute in various directions. We note with interest that the American Institute has given particular attention to the question of bringing before the public in the United States the services which the accountancy profession can render in commercial and industrial matters through its bureau of public affairs. This bureau has published letter-bulletins dealing with such commercial questions as long-firm frauds in bankruptcy and the value of commercial arbitration. In addition, the bureau has prepared a large number of newspaper articles descriptive of the work of members, particularly in relation to Federal taxation.

This development of corporate publicity is, so far as we are aware, peculiar to the American Institute of Accountants, and is serving a useful purpose in bringing before the public the value of the services of properly qualified members of the profession. The American Institute are the proprietors of our contemporary, *The Journal of Accountancy*, to the contents of which we refer from time to time in our columns.

LIFE ASSURANCE UNDER A MICROSCOPE

A lecture on this subject was delivered to members of the Institute of Book-keepers by Major J. Clayton Chillingworth. The chair was taken by Dr. W. R. H. Heddy, M.R.C.S., L.R.C.P., D.P.H., Barrister-at-Law.

The points of the lecture were that while ordinary life assurance is becoming more and more essential, less appears to be known about its practical application in this country than anywhere else in the English-speaking world. The Lecturer held that the whole system of life assurance business represented by the interaction of sellers, buyers and the necessary intermediaries is a machine that requires adjustment. He proposed the formation of an association of life policy holders, actual and prospective, to initiate legislation, and the formation of an advisory body for the service of the general public with the main ultimate object of lowering the cost of life assurance to the individual.

Scottish Notes.

(FROM OUR CORRESPONDENT.)

Mr. Robert Young, F.S.A.A., Elgin.

It is with great regret we have to announce the death of Mr. Robert Young, Incorporated Accountant, Elgin, which took place on 9th ult. A fortnight previously Mr. Young got a chill when at Dufftown on business. Influenza followed, then pneumonia supervened. Mr. Young, who was a nephew of the late Lord Provost Young, on leaving school entered the office of the Sheriff-Clerk at Elgin. After some years he went to Glasgow where he became cashier and accountant in the office of one of the leading legal firms in that city. For a short time he acted as Sheriff-Clerk-Depute at Alloa. Returning to his native town he started his professional career as an accountant in 1883, and soon built up a large business. He held a large number of appointments of a professional nature. For some years he was a member of the

Elgin town council. Mr. Young became a member of the Scottish Institute of Accountants (the Scottish Branch of the Society) in 1888, and a member of Council about 30 years ago, and for over 25 years he had been one of the Vice-Presidents of the Branch. He was a regular attender at all the meetings of the Branch, and took a keen interest in all the work of the Society in Scotland. Mr. Young, who had reached the age of 74, leaves a widow and daughter for whom much sympathy is felt.

Mr. George E. Dall, F.S.A.A., Edinburgh.

We regret to report the death of Mr. George E. Dall, Incorporated Accountant, Edinburgh, which took place rather suddenly on January 21st. Mr. Dall, who was a son of the late Rev. G. E. Dall, Bedlington, Northumberland, was a member of the Scottish Institute of Accountants (the Scottish Branch of the Society) for many years, and took an active part in promoting the interests of the Society in Edinburgh and the East of Scotland. He carried on a large accountancy practice. Mr. Dall was unmarried and is survived by his sister.

Glasgow Students' Society.

A meeting of the Incorporated Accountants' Students' Society of Glasgow was held on 2nd ult., when Mr. William L. Weir, B.L., Solicitor, Glasgow, gave a lecture on "Partnership." The chair was occupied by Mr. P. G. S. Ritchie, F.S.A.A., and there was a large attendance. The Lecturer said that the Partnership Act, 1890, was divided into four sections, namely, (1) Nature of Partnership, (2) Relations of Partners to persons dealing with them, (3) Relations of Partners to one another, and (4) Dissolution of Partnership and its consequences, and he discussed at length each of these divisions. In the course of his lecture Mr. Weir pointed out some of the differences between English and Scots law, such as in Scotland a firm is a legal persona, distinct from its partners of whom it is composed, but an individual partner may be charged on a decree or diligence directed against the firm and on payment of the debts is entitled to relief *pro rata* from the firm and its other members. The question of goodwill in partnership was also referred to, and also the chief principles affecting accounting between partners in the case of dissolution. The Lecturer concluded by a reference to limited partnership. A number of questions were asked and answered by the Lecturer, after which Mr. James Paterson, F.S.A.A. (Secretary, Scottish Branch), moved a vote of thanks to the Lecturer, which was heartily given.

A Super Tax Problem.

The First Division of the Court of Session recently heard Counsel and gave judgment in an Exchequer case in which Lady Lockhart de Robeck, wife of Vice-Admiral Sir John de Robeck, appealed against an assessment to super tax on the sum of £4,782, made upon her for the year ended April 5th, 1924, in respect of the proportion of her income for the previous year effeiring to the period from July 3rd, 1922 (the date of her marriage) to April 5th, 1923. The appellant is the widow of Sir Simon Macdonald Lockhart of Lee and Carnwath, Bart., who died on March 25th, 1919. By his trust disposition and settlement Sir Simon directed his trustees to make over in favour of his wife in liferent all his lands and heritages in Scotland. The heritable estates were found to be heavily mortgaged, and, pending the realisation of a sufficient part of the estates to meet the instalments of death duties, the trustees retained the estates and the management thereof in their own hands, and paid to the appellant the free annual income. The appellant contended that, subject to fulfilment of the prior trust purposes, the trustees had under the will a discretion as to the date at which a conveyance was to be granted; that the discretion had not been unreasonably exercised; and that she was entitled to be assessed to super tax by reference to the income actually receivable by her from the trustees. For the Inland Revenue it was maintained that on a proper construction of the trust disposition and settlement the appellant was a full life-rentrix, and that it was immaterial whether the appellant was feudally vested in the estates or whether she allowed them to remain in the trustees' names. The Division, reversing the decision of the Commissioners for the special purposes of the Income Tax Acts and sustaining the appeal, held that the appellant was not assessable to super tax as a life-rentrix, but that she was assessable on the amount of the free income actually receivable by her from the trustees.

Income Tax—Conversion of Plant.

The First Division recently disposed of an appeal for the Lothian Chemical Company, Limited, Edinburgh, against an assessment to income tax on the sum of £1,940 made upon the company for the year ended April 5th, 1923. In June, 1917, the company were manufacturers of T.N.T., and decided that the situation of their works was dangerous, and made an arrangement with the Ministry of Munitions for the conversion of their plant and works, with the object of rendering them suitable for the manufacture of calcium nitrate. Following upon the armistice the Ministry of Munitions' contract with the company was determined towards the end of the year 1918, after only one week's output had been manufactured. The actual cost to the company of the work of conversion exceeded the sum of £15,000 payable and paid by the Ministry in terms of the contract by a sum agreed for the purposes of this case to be taken at £4,044. In October, 1924, the company raised an action against the Lord Advocate for recovery of the excess of the cost of the conversion of the works and plant over the sum received from the Ministry, and in February the action was settled, the company receiving a net sum of £1,879. The loss of £2,165, being the difference between the sum of £1,879 and the sum of £4,044, was claimed by the company as a deduction in computing the result of its working for the year ending March 31st, 1921, and it was contended on their behalf that it was a trading loss and a bad debt. The Court, upholding the contention of the Crown, held that the sum was a loss not connected with or arising out of the company's trade, and that it was a loss of capital and inadmissible as a deduction for the purposes of income tax.

A Winding Petition.

A somewhat unusual petition came before the Sheriff-substitute at Hamilton last month. A petition was presented at the instance of Mr. Wm. Macdonald, Edinburgh, described as a "corporated registered accountant and public auditor," under the Industrial and Provident Societies Act, against the Hamilton Ex-Service Mens' Club, Limited. The pursuer craved to have the club wound up in terms of the Acts, and to have a liquidator appointed. The ground of the action was that the club was unable to pay its debts, including the remuneration of the pursuer as auditor. The Sheriff found that on June 28th, 1926, the pursuer's law agent, acting on his behalf, served a demand on the defenders for the payment of £4.05, being the amount claimed by the pursuer, and intimating that failing payment within three weeks proceedings for winding up would be instituted. This note was signed by the pursuer's law agent, and was therefore not a demand note in the pursuer's hand. The defenders were not to be deemed unable to pay their debts, he added, in respect of their failure to comply with the said demand. He found that the pursuer's claim, being illiquid, it would be expedient to sist the present process in order to give the pursuer an opportunity of constituting his debt, and sisted the process accordingly. In his note the Sheriff explained that, so far as the claim for winding up was concerned, the demand made by the creditor through his law agent was insufficient, as such a claim must be made in the creditor's hand. As the creditor had not constituted his debt, and it was illiquid, he was not entitled in the meantime to insist on this application for winding up as the debt might, after all, be less than the statutory amount of £50. Under these circumstances the creditor would require to raise a separate action for the constitution of the debt.

A Footballer's Income Tax.

A Scottish professional footballer was recently assessed to income tax on money he received as one of the Scottish team which toured the Argentine three years ago. He received £60 as a "gift" for playing in a benefit match in Monte Video. He contended that, as he had agreed to play in the match for nothing, and as it was outside his contract, the "gift" was not assessable. He also claimed a deduction for hotel tips, which, he said, were compulsory in the Argentine. The appeal was heard in December last and has been sustained.

Notes on Legal Cases.

INSOLVENCY.

In re Mathieson.

Power of Appointment.

The Court of Appeal allowed an appeal from a decision of Mr. Justice Astbury (reported in the *Incorporated Accountants' Journal*, January, 1927, p. 147), and held that an appointment under a general power contained in an ante-nuptial contract was not a voluntary settlement within sect. 42 of the Bankruptcy Act, 1914.

(C.A.; (1927) L.J.N., 57.)

In re Forder.

Forfeiture Clause in Will.

Clauson (J.) held that the annulment of a bankruptcy before any rights arising from the existence of the bankruptcy were enforced against property to which, subject to a forfeiture clause in a will on bankruptcy, a beneficiary was entitled, was in time to prevent such forfeiture from taking effect.

(Ch.; (1927) L.J.N., 58.)

In re Boulton Brothers & Co.

Contracting a Debt without reasonable ground of expectation of being able to pay it.

The partners of a firm, which was heavily indebted to the firm's bankers, formed a limited company to take over the debt. They then, with the consent of the principal creditors of the firm, gave the bank a joint and several guarantee for payment of the transferred debt and of any sums due to the bank from the company. The firm and the individual partners subsequently became bankrupt.

It was held by the Court of Appeal, that the bankrupts had by the guarantee contracted a "debt provable in the bankruptcy without having at the time of contracting it any reasonable or probable ground of expectation of being able to pay it" within clause (*d*) of sect. 26 (3) of the Bankruptcy Act, 1914, and that their discharge must be suspended for a period of two years, but the Court, upon the particular facts of the case, granted each appellant partner a certificate that his bankruptcy was "caused by misfortune without any misconduct on his part," the certificate to operate when the discharge took effect. Clause (*d*) of sect. 26 (3) covers not only a new and original debt, but also a debt in renewal of or in substitution for a previously existing debt.

(C.A.; (1927) 1 Ch., 79.)

REVENUE.

Kirke's Trustees v. Inland Revenue Commissioners.

Repayment of Excess Profits Duty.

By Rule 4 (1) of the rules applicable to Cases I and II of Schedule D of the Income Tax Act, 1918, "where any person has received repayment of any amount previously paid by him by way of excess profits duty, the amount repaid shall be treated as profit for the year in which the repayment is received." The appellants formerly carried on at Burntisland the business of managing a sugar plantation out of the United Kingdom, and they paid excess profits duty in respect of this business up to June 30th, 1920. In the next accounting period, ending June 30th, 1921, the appellants' profits did not reach the point which involved liability to excess profits duty, and on April 22nd, 1922, in accordance with sect. 38 (3) of the Finance (No. 2) Act, 1915, they received repayment of the sum of £16,242 in respect of the amount previously paid by them for excess profits duty. In August, 1921, the appellants sold their business to a Scottish company and ceased to carry on business. Upon this sum the appellants were assessed to income tax in respect of the tax year 1922-23.

The House of Lords held (1) that, having regard to the language of Rule 4 (1), the appellants were liable to assessment, notwithstanding that they had ceased to carry on business; (2) that they were chargeable to income tax upon the full amount of the duty repaid; and (3) that, as the profit did not fall under Case I or under any other of the cases preceding Case VI, it fell to be assessed under Case VI. It was true that the rule in question was included in the rules applicable to Cases I and II, but that rule was a re-enactment of sect. 35 (1) of the Finance (No. 2) Act, 1915, which in its original context applied to the whole of Schedule D, and it did not appear that its transfer to a new heading in the consolidating Act of 1918 was intended to give it a different meaning.

(H.L.; (1927) W.N., 18.)

Inland Revenue v. Pakenham; Inland Revenue v. Countess of Longford; Inland Revenue v. Earl of Longford; Gascoigne v. Inland Revenue.

Super Tax.

Where trustees of a settlement set apart certain sums annually for the maintenance of an infant beneficiary and allow the balance of the income to accumulate, the income that is being accumulated is "receivable" by the infant within the meaning of sect. 5 (3) (*c*) of the Income Tax Act, 1918, and he is liable to be assessed to super tax in respect of the entire income as it accrues year by year and not merely in respect of the annual sums allowed to him by the trustees for his maintenance.

Representative assessments to super tax cannot be made upon the trustees or the guardian of the infant beneficiary, either in respect of the actual total income of the infant, or in respect of a total income limited, as regards the particular trustee or guardian, to that income with which the trust or guardianship is concerned.

(K.B.; (1927) 43 T.L.R., 157.)

Inland Revenue v. Peter M'Intyre, Limited.

Excess Profits Duty.

The Finance (No. 2) Act, 1915, sect. 39 (*c*) provides that the trades or businesses to which the Act applies do not include "any profession the profits of which are dependent mainly on the personal qualifications of the person by whom the profession is carried on and in which no capital expenditure is required, or only capital expenditure of a comparatively small amount."

Peter M'Intyre, Limited, appealed against the assessment of their profits arising from their business of auctioneers, and claimed a proportion of their profits were exempt under sect. 39 (*c*).

It was held by the Court of Session that as the profits of a profession could not be dependent on the personal qualifications of the company, the company was not entitled to relief.

(S.C.; (1927) S.L.T., 63.)

Inland Revenue v. Livingston.

Annual Profits or Gains from a Trade.

Three individuals combined to buy a ship for the purpose of alteration and re-sale. The ship was reconditioned and resold at a profit within the same income tax year.

The Court of Session held that they were assessable to income tax on that profit under Case I of Schedule D of the Income Tax Act, 1918.

(S.C.; (1927) S.L.T., 112.)

Doughty v. Commissioner of Taxes.

Capital Sales and Sales producing Income.

The appellant and a partner converted their partnership as drapers into a private limited company in which they were the sole shareholders. The Commissioner of Taxes claimed that the amount of £15,025, which was the difference between the value of their stock-in-trade as shown in their last balance-sheet, and the value at which it was computed when the company took it over, was a profit assessable to income tax.

It was held by the Privy Council that if a business was one purely of buying and selling, a profit made by the sale of the whole of the stock, if it stood by itself, might well be assessable to income tax, but that in the present case there was merely a slump transaction. The Crown was not entitled to take a book-keeping entry as conclusive evidence of the existence of a profit, and the sum in question was not assessable to income tax.

(A.C.; (1927) 43 T.L.R., 207.)